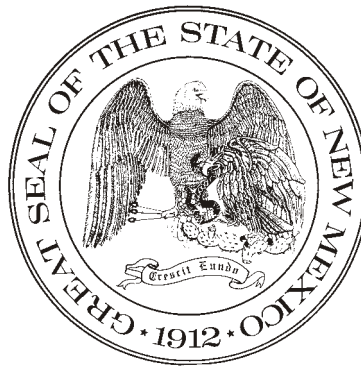


ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

FINAL REPORT 2006 INTERIM



Legislative Council Service
December 2006

**ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE
2006 INTERIM SUMMARY**

At its initial meeting of the 2006 interim, the Economic and Rural Development and Telecommunications Committee (ERDT) identified nine areas upon which it intended to focus during the 2006 interim: 1) availability of high-speed internet access throughout the state, including discussions of the Governor's "Wire New Mexico" program and the status of the rural extension fund; 2) stimulation of small business entrepreneurship, including art trails and main street programs; 3) expansion of the role of colleges and universities in economic development within their respective regions, including review of business school programs such as the Arrowhead Center at New Mexico State University (NMSU), and the status of the Small Business Development Centers; 4) regulation of the payday lending industry; 5) effectiveness of tax incentive policies; 6) GRIP II project; 7) energy issues, including adequacy of transmission line networks and alternative energy opportunities; 8) obstacles to business development, including testimony from the Department of Environment, the Construction Industries Division of the Regulation and Licensing Department and the Oil Conservation Division of the Energy, Minerals and Natural Resources Department; and 9) the status of the economic partnership program, budget and needs. In addition to meeting at the state capitol for its first and last meetings, the committee also elected to meet in Gallup, Grants, Tucumcari, Santa Rosa, Ruidoso, Las Cruces, Deming and Rio Rancho.

At its initial interim meeting in June, the ERDT heard testimony from representatives of the Economic Development Department regarding economic development in New Mexico and the department's activities. Deputy Secretary Kelly O'Donnell summarized the department's activities over the past three years and related statistics regarding the state's economic growth and updated the committee on the proposed spaceport and the X Prize competition. Assistant Secretary Eric Griego updated the committee on the department's efforts in the area of community and rural economic development including local MainStreet downtown revitalization programs and implementation of the Certified Communities Initiative. Clark Krause, acting chief executive officer, New Mexico Economic Development Partnership, reviewed the programs and accomplishments of the partnership since its inception in October 2003. Finally, the committee worked with the staff of the Legislative Council Service to decide upon its focus topics for the 2006 interim and the locations of its meetings throughout the interim.

The second interim meeting of the ERDT was held the first day at Gallup High School. The committee received a report from J.J. Clacs and Associates regarding the re-use plan and feasibility study for the McKinley North Mine operated by the Pittsburgh and Midway Coal Mining Company. That study was the result of a \$100,000 appropriation from the state that was matched by the Navajo Nation. The committee was briefed on Gallup Inter-Tribal Indian Ceremonial that was scheduled to begin later on that week. Glen Benefield, executive director, City of Gallup Economic Development Office; Herb Mosher, executive director, Gallup Chamber of Commerce; and David Simon, director, State Parks Division, Energy, Minerals and Natural Resources Department, briefed the committee on the history of Red Rock State Park, the current uses of that facility and the need to bring the facility into compliance with the Americans

with Disabilities Act. J. Roy Miller, state director, New Mexico Small Business Development Centers, updated the committee on his organization. Elsie Sanchez, director, Gallup Small Business Development Center, briefed the committee on the areas served by her organization, statistics for services rendered during fiscal year 2006 and resources partners that center has utilized. Loie Fecteau, executive director, New Mexico Arts, described the fiber arts trails program that has recently been implemented in New Mexico as a result of a nonrecurring appropriation passed during the 2006 legislative session. Evan Williams, a planner with the Northwest New Mexico Council of Governments, briefed the committee on the McKinley County Cultural Enterprise Network.

On the second day of the July meeting, the committee met at the Coyote del Malpais Golf Course in Grants. Sharlene Begay-Platero, industrial development representative, Navajo Nation Division of Economic Development, and Margaret Mitchell, director, San Juan Economic Development Service, spoke to the committee about the need to increase state funding for the Economic Development Department's cooperative advertising program. Marshall Plummer, governmental affairs manager for the Arizona Public Service; Russell Huffman, San Juan Generating Station plant manager; Art Hull, lobbyist, Public Service Company of New Mexico; Freddy Sanches, vice president, Sithe Global Power; and Stephen C. Begaye, general manager, Diné Power Authority, briefed the committee of the economic impact of power generating plants in northwest New Mexico. Finally, Arturo Jaramillo, secretary of general services; John Martinez, director, Communications Division, General Services Department; and Roy Soto, New Mexico chief information officer, appeared before the committee to present the WIRE New Mexico program.

The third interim meeting of the ERDT was held the first day at the convention center in Tucumcari. Keven Groenewold, president, New Mexico Rural Development Response Council, reviewed the history of the council, and Bill McCamley, executive director, New Mexico Rural Development Response Council, reviewed the mission and accomplishments of the council. Peter Kampfer, executive director, Greater Tucumcari Economic Development Corporation, briefed the committee on the activities of his organization and explained the use and importance of cooperative advertising dollars. Muffet Foy Cuddy, chief, Programs Division, Department of Transportation (DOT), and Patricia Oliver-Wright, manager, Strategic Planning Section, DOT, presented an overview of the GRIP II program that is intended to address local critical transportation needs and to tie state and local roads into a seamless system. Legislation introduced in 2006 provided for \$250 million in funding assistance for 110 projects and included \$500,000 for engineering support statewide, but because it was not passed in 2006, the proposal will be resubmitted for the 2007 legislative session. David Eves, CEO, Xcel Energy; Keven Groenewold, executive vice president and general manager, New Mexico Rural Electric Cooperative Association; Art Hull, lobbyist, Public Service Company of New Mexico; and Robert Kondziolka, with the Salt River Project in Arizona, discussed issues related to capacity limitations in power transmission lines. Joanna Prukop, secretary of energy, minerals and natural resources, and Craig O'Hare, special assistant for renewable energy, briefed the committee on clean energy initiatives in New Mexico. Initiatives for the 2007 legislative session will include the proposed Renewable Energy Transmission Authority Act. Odes Armijo-Caster, a principal owner of the Sacred Power Corporation (a Native American company), briefed the

committee on the activities of that corporation. Secretary of General Services Arturo Jaramillo addressed the committee to give the background history of the Qwest Alternative Form of Regulation litigation and Assistant Attorney General Brian Harris reviewed the terms of the proposed settlement agreement and its benefit to New Mexico and its residents.

On the second day of the August meeting, the committee met at Santa Rosa High School. Deputy Attorney General Stuart Bluestone and representatives of the Financial Institutions Division (FID) of the Regulation and Licensing Department (RLD) briefed the committee on the background of the rules recently promulgated by FID to regulate the payday lending industry. John Rabenold, vice president of governmental affairs for Check 'n Go, commented on the proposed regulations on behalf of a national trade association for the payday lending industry, as did Craig Parr on behalf of Consumer Lending Advocates, Inc., a New Mexico-based association of payday lenders. David Seely, president and chief executive officer of the Kirtland Federal Credit Union, explained the loan products his institution makes available to members of the military and efforts they make to assist customers to be responsible in their financial practices. Jeanne Bassett, executive director of New Mexico Public Interest Research Group; Clarice Getz on behalf of AARP New Mexico; and Zachary Klein, managing attorney for the Fort Defiance Agency office of the DNA-People's Legal Services, commented on the proposed regulations from the perspectives of their organizations. Dale M. Vande Hey, southwest regional liaison, Air Force Quality of Life, addressed the effect of payday lending on military personnel and preparedness.

The fourth interim meeting of the ERDT was held in Ruidoso Downs. In reference to the Hidalgo County economic development plan, Jaime Campos of the Mexican Border Authority introduced new border crossing projects. Jerry Pacheco, contractor for the New Mexico Department of Agriculture, emphasized the need to work with the northwest region of Chihuahua in order to develop the port of entry at Antelope Wells and they both described an example of economic development in Dona Ana County as a model for the type of business Hidalgo County could attract. Addressing wireless networking technology, Dr. Alfred Barr, general manager of VCS Interactive, LLC, made a proposal to create a public-private partnership to provide a wireless network throughout New Mexico to enhance cell phone connectivity, radio free spectrum, optics (lasers) and wireless connection. Harold Skow of the Division of Information Technology for the Navajo Nation and Todd Romero of the Crownpoint Institute of Technology (CIT) presented the Internet-to-the-Hogan Program. Public Regulation Commissioner E. Shirley Baca announced that the commission issued its Order on Reconsideration for the termination of Qwest's Rural Extension Fund and gave the committee background information on that case. Ray Mondragon, manager, area economic development partnership, ENMR Plateau, and Tom Phelps, CEO of ENMR Plateau, presented current strategies for increasing the number of jobs in rural communities. Clark Krause, CEO of the New Mexico Economic Development Partnership, updated the committee on the Partnership's work over the past year. Rick Homans, secretary of economic development, handed out the annual report for fiscal year 2006 and gave an update on the department's activities and accomplishments over the past year. Sam Ray and Charles Ferrel of the New Mexico Exchange Carrier Group expressed the group's concern about the state, through its involvement in the WIRE New Mexico program, acting as a telecommunications provider rather than an aide for

rural communities to gain broadband access. On the second day of the meeting, Gary Tomada, director, Alcohol and Gaming Division, RLD, gave a brief synopsis of the alcohol licensing history and system in New Mexico and Edward Lopez, superintendent of regulation and licensing, presented conclusions from a study analyzed by the DWI Resource Center that shows a strong correlation between the density of liquor licenses and incidences of DWI. Sayuri Yamada of the Association of Commerce and Industry and T.J. Trujillo, attorney with expertise in administrative law, presented a solution to regulatory obstacles called regulatory justice that is planned to be proposed for the 2007 legislative session. Finally, Eddie Fowler, chair, State Racing Commission, and Pat Bingham, vice president, New Mexico Horsemen's Association, gave the committee an update on the status of the New Mexico horse racing industry.

The fifth interim meeting of the ERDT was held the first day at the NMSU Golf Course Club House in Las Cruces. Dr. Beverlee J. McClure, secretary of higher education, addressed the committee on the role of higher education in economic development and reviewed the department's 2006 strategic priorities and related goals. Dr. Garrey Carruthers, dean of the college of business and vice president for economic development, NMSU, and Kathy Hanson, chief operating officer of the Arrowhead Center, Inc., NMSU, presented to the committee regarding the Technology Research Collaborative. Dr. Kelly O'Donnell, deputy secretary for economic development, presented to the committee regarding the findings of the Rural Banks Task Force convened earlier this year by Governor Richardson and chaired by Secretary of Economic Development Rick Homans. Mike Bowen, executive director of the New Mexico Mining Association, briefed the committee on the economic importance of mining in New Mexico. Debbie Romero, Department of Finance and Administration, updated the committee on the activities of the New Mexico Rodeo Council.

On the second day of the meeting, the committee met at the Mimbres Valley Learning Center in Deming. Charlie Marquez, lobbyist; Gene Baca, president of the New Mexico Chile Association; and Dino Cervantes, chile grower, explained how important the chile industry is to New Mexico, how significantly it has been affected by the growing importation of chile from other countries and how the industry is asking for a \$7 million appropriation for research and market development assistance from NMSU. Bob Gallagher, executive director, New Mexico Oil and Gas Association, presented to the committee regarding the proposed Surface Owner's Protection Act that will be proposed once again for the 2007 session. Pam Roy, coordinator, New Mexico Food and Agriculture Council, and Craig Mapel, New Mexico Department of Agriculture, presented the committee with seven requests for legislative endorsement.

The sixth and final interim meeting of the ERDT was held the first day at the new Santa Ana Star Center in Rio Rancho. Senator Bernadette M. Sanchez introduced a draft of her proposed payday legislation for the 2007 legislative session that is based upon recently passed federal legislation setting guidelines for consumer loans made to members of the military and their dependents. Then, Representative Patricia A. Lundstrom, assisted by Ed Lopez, superintendent, RLD, and Bill Verant, director, Financial Institutions Division, RLD, presented a payday lending bill proposed by the administration. Barbara Stoller, director of the Small Business Innovation Research (SBIR) Outreach Program, briefed the committee on the program's impact on New Mexico's economy and explained to the committee the SBIR Outreach

Program and the Small Business Technology Transfer Program (STTR). Carol Ann Sanchez, president, New Mexico Manufacturing Extension Partnership, and Michael Randolph, director of business development, briefed the committee on the activities of the Partnership. Agnes Noonan, executive director, Women's Economic Self-Sufficiency Team (WESST Corp); Belinda Jentzen, director of development for WESST Corp; and Carol Radosevitch, WESST Corp board member, briefed the committee on the activities of WESST Corp and the construction of its new building in Albuquerque. J.D. Bullington and John Salazar, Esq., co-chairs, Governor's Task Force on the Responsible Use of Eminent Domain by State and Local Governments, briefed the committee on the work of the task force and the report to the governor dated November 9, 2006.

On the second two days of the meeting, the committee met at the State Capitol. A number of speakers presented different economic development initiatives serving a variety of communities statewide. Christina McCandless, program manager, Regional Development Corporation, explained some of the challenges of servicing small businesses in rural New Mexico. Barbara Deaux, executive director, North Central New Mexico Economic Development District, announced the organization's recent receipt of a \$2 million Kellogg grant. A representative from WESST Corp shared some success stories from its initiative, which aims to facilitate the start-up and growth of women- and minority-owned businesses throughout the state by providing consulting, training and loans. John Badal, CEO, Sacred Wind Communications, Inc., summarized the mission and activities of Sacred Wind Communications, a rural telecommunications company that services the Navajo Nation, and presented a proposed internet training program for the Navajo Nation. Mariann Johnston of Los Alamos National Laboratory's (LANL) Community Programs Office expressed LANL's desire to participate in the small business program beginning in 2007 with the goal to cultivate collaboration between Sandia National Laboratories and LANL. Marie Longserre, president, Santa Fe Business Incubator, and Senator Leavell presented an appropriations request for \$750,000 to the Economic Development Department to operate certified business incubators throughout the state. Luis Reyes, general manager, Kit Carson Electric Cooperative, briefed the committee on tension between Tri-State and individual cooperatives and proposals to regulate electric rates. Kelly O'Donnell, deputy secretary of economic development, distributed a presentation on creating a business friendly climate, focusing on tax incentives and the anti-donation clause. John Indall, George Byers and Juan Velasquez, representing the mining industry, presented plans for uranium mining in New Mexico and the direction of the industry. Star Gonzales, executive director of Cibola County economic development, briefed the committee on benefits the uranium industry would bring to Cibola County.

On the last day of that meeting, Rick Homans, secretary of economic development, addressed the committee and presented the department's legislative package for 2007. The committee then considered and voted on a variety of initiatives for the 2006 legislative session including substantive legislation, appropriations and memorials. The committee voted to endorse the following proposals, copies of which are appended to this report:

Substantive Bills

- Recover cost of investment in new transmission facilities

- Limit scope of WIRE New Mexico program
- Regulate the payday lending industry
- Tax credits for laboratory partnerships
- Amend the Family Opportunity Act

Appropriations

- \$7.0 million for research to support the chile industry
- \$5.0 million for improvements to Red Rock State Park to comply with ADA requirements
- \$600,000 for the Economic Development Department cooperative advertising program
- \$250,000 for a farmers' market nutrition enhancement program
- \$750,000 for certified business incubators
- \$12.0 million for the Technology Research Collaborative
- \$628,000 for Navajo Nation internet training
- \$1.3 million for manufacturing extension services
- \$250,000 for the Small Business Innovation Research Outreach Program

Memorials

- Requesting the creation of a healthy foods task force

At the conclusion of its meetings for the 2006 interim, the ERDT had heard testimony regarding all of the elements of its work plan as proposed at its initial meeting and approved by the Legislative Council. By conducting its meetings at numerous rural locations, the ERDT has sought to reassure interested parties that it was indeed paying close attention to rural development issues.

2006 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
ECONOMIC AND RURAL DEVELOPMENT AND
TELECOMMUNICATIONS COMMITTEE

Members

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Hector H. Balderas
Rep. Jose A. Campos
Rep. Daniel R. Foley
Sen. Mary Jane M. Garcia
Rep. Dianne Miller Hamilton
Sen. Clinton D. Harden, Jr.

Sen. Carroll H. Leavell
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Rep. Kathy A. McCoy
Rep. Andy Nunez
Sen. John Pinto
Sen. William E. Sharer
Sen. Leonard Tsosie

Advisory Members

Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Sen. Phil A. Griego
Rep. John A. Heaton
Rep. Ted Hobbs
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Sen. Steven P. Neville

Rep. Al Park
Sen. Lidio G. Rainaldi
Sen. Shannon Robinson
Rep. Debbie A. Rodella
Rep. Harriet I. Ruiz
Sen. John C. Ryan
Rep. Richard D. Vigil

Work Plan

The Economic and Rural Development and Telecommunications Committee has evolved from its initial assignments. In the early 1990s, the committee's predecessor was the Science, Technology, Energy and Defense Conversion Committee because the state was facing some potential base closures or realignment prospects. The closure of Walker Air Force Base in Roswell in the 1960s was still fresh in people's memories, and there were fears that New Mexico could experience additional significant losses of federal installations. There was also frustration over the migration of Microsoft to Seattle and New Mexico's apparent inability to exploit the presence of national laboratories. The national laboratories were spinning off small high-tech startups that would move to California or Washington and not create jobs and tax revenues in New Mexico. As the committee began to focus on concepts such as technology transfer, people in rural parts of the state felt left out, and suggestions were made to create a committee on rural affairs. The Legislative Council assigned rural development to the committee and changed its name accordingly. Simultaneously, the internet was beginning to make itself felt, but New Mexico was seen as being left out of this development. Telephone service was undergoing a significant metamorphosis economically and institutionally as well. Hence, telecommunications was added to the committee's duties and name. Space development has also been part of the

committee's scope of work, partly because of the presence in New Mexico of the White Sands Missile Range and the threat in the early 1990s that the role of White Sands might be diminished if new missions were not forthcoming. Now, space, the next frontier, may be a significant player in New Mexico's future economy.

These trends and others continue to challenge New Mexico, and the Economic and Rural Development and Telecommunications Committee will likely be taking on these and other issues as economic possibilities continue to evolve.

A. The Economic and Rural Development and Telecommunications Committee proposes to explore and discuss the following topics during the 2006 interim:

1. availability of high-speed internet access throughout the state, including discussions of the Governor's "Wire New Mexico" program and the status of the rural extension fund;

2. stimulation of small business entrepreneurship, including art trails and main street programs;

3. expansion of the role of colleges and universities in economic development within their respective regions, including review of business school programs, such as the Arrowhead Center at NMSU, and the status of the Small Business Development Centers;

4. regulation of the payday lending industry;

5. effectiveness of tax incentive policies;

6. the GRIP II project;

7. energy issues, including adequacy of transmission line network and alternative energy opportunities;

8. obstacles to business development, including testimony from the Department of Environment, the Construction Industries Division of the Regulation and Licensing Department and the Oil Conservation Division of the Energy, Minerals and Natural Resources Department; and

9. the status of the economic partnership program, budget and needs.

B. The committee will coordinate, as needed, with other committees regarding presentations of subject matter of common concern.

2006 APPROVED MEETING SCHEDULE

The Economic and Rural Development and Telecommunications committee proposes to hold six meetings on the following dates in the following locations:

<u>Dates</u>	<u>Location</u>
June 13	Santa Fe
July 24-25	Gallup, Grants
August 24-25	Tucumcari, Santa Rosa
September 27-28	Ruidoso
October 25-26	Deming, Las Cruces
November 13-14	Santa Fe

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**June 13, 2006
Room 322, State Capitol**

Tuesday, June 13

- 1:00 p.m. **Call to Order**
- 1:05 p.m. **2006 Legislation — Summary**
 —Gordon Meeks, Legislative Council Service
- 1:30 p.m. **Economic Development Department — Update**
 —Kelly O'Donnell, Deputy Secretary of Economic Development
- 2:30 p.m. **2006 Interim Work Plan and Meeting Schedule Development**
 —Chase Van Gorder, Legislative Council Service
 —Gordon Meeks, Legislative Council Service
- 3:30 p.m. **Adjourn**

**MINUTES
of the
FIRST MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**June 13, 2006
State Capitol, Room 322
Santa Fe**

The first meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was called to order by Representative Mary Helen Garcia, chair, on Tuesday, June 13, 2006, at 1:07 p.m. in Room 322 at the State Capitol in Santa Fe.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Jose A. Campos
Rep. Daniel R. Foley
Sen. Mary Jane M. Garcia
Sen. Clinton D. Harden, Jr.
Sen. Carroll H. Leavell
Rep. Patricia A. Lundstrom
Rep. Kathy A. McCoy
Rep. Andy Nunez
Sen. John Pinto
Sen. William E. Sharer
Sen. Leonard Tsosie

Advisory Members

Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Sen. Phil A. Griego
Rep. John A. Heaton
Rep. Ted Hobbs
Sen. Steven P. Neville
Rep. Al Park
Sen. Lidio G. Rainaldi
Rep. Debbie A. Rodella
Sen. John C. Ryan
Rep. Richard D. Vigil

Staff

Charles H. Van Gorder
Gordon Meeks
Jeremy LaFaver

Absent

Rep. Hector H. Balderas
Rep. Dianne Miller Hamilton
Sen. Richard C. Martinez

Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Sen. Shannon Robinson
Rep. Harriet I. Ruiz

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Tuesday, June 13**2006 Legislation — Summary**

Gordon Meeks summarized the history of the Economic and Rural Development and Telecommunications Committee and briefly described some of the appropriations bills endorsed by the committee during its 2005 interim and the appropriations that finally made it into the general appropriations bills in the 2006 session.

Economic Development Department — Status Update

Kelly O'Donnell, deputy secretary of economic development, summarized the activities of the Economic Development Department (EDD) over the past three years, emphasizing that the state has experienced significant economic improvements. New Mexico's 2.8 percent rate of job growth ranks twelfth in the United States. The state's seasonally adjusted unemployment rate for February 2006 was 4.0 percent, the lowest it has been in 30 years. New Mexico's unemployment rate has gone from thirty-fourth nationwide in 2003 to nineteenth currently, and the decline in the state's jobless rate is accelerating. The state's economic growth is being driven by high-wage industries with more than 2,000 jobs being added in the business and professional services sector in 2005. New Mexico's per capita personal income increased by 5.6 percent between 2004 and 2005 (the national figure was 4.6 percent) and the state ranks twelfth in the nation in growth of personal income.

Deputy Secretary O'Donnell stated that the EDD's mission is to improve quality of life through business development and community development, including job creation. Strategies to accomplish this mission include departmental activities to recruit new businesses, retaining and expanding existing businesses and supporting business development through such programs as tax incentives and addressing regulatory issues. The department has taken the lead in some instances, such as with the X Prize and the spaceport, and also works with other semi-independent private and public sector organizations such as the New Mexico Partnership, thereby enabling the state to respond rapidly to new business opportunities. The department also seeks to strengthen New Mexico communities, helping to make them good places to live where employees will want to come and stay. The deputy secretary also updated the committee on the proposed spaceport and the X Prize competition.

Eric Griego, assistant secretary for economic development, updated the committee on the department's efforts in the area of community and rural economic development. These efforts include supporting local MainStreet downtown revitalization programs; appointing a Native American liaison within the EDD and utilizing regional representatives; working with historic land grant communities to identify appropriate development strategies; implementing the Certified Communities Initiative (23 certified communities now; 10 more expected in the next fiscal year); implementation of the Local Economic Development Act to leverage resources at

the community level; and monthly meetings of the Rural Economic Action Partnership and the Jobs Training Investment program.

Clark Krause, acting chief executive officer of the New Mexico Economic Development Partnership, reviewed the programs and accomplishments of the partnership since its inception in October 2003. The partnership provides a business recruitment service and has been involved in locating 16 new companies and the creation of 4,239 new jobs in New Mexico.

Questioning by committee members included requests for disaggregated statistics so that advances in economic development can be viewed on a county-by-county basis. There was also concern expressed regarding the lack of a uniform definition for the term "rural". Questions were also raised regarding the effectiveness of tax incentive programs and whether various state programs may be working at cross purposes when it comes to business development. Concern was also expressed regarding how much economic development is taking place in rural areas of the state as compared to the Rio Grande corridor. In response to inquiries regarding disaggregated data, staff from the EDD stated that they do not currently have access to most of the state's data banks. In order to disaggregate the data, the Labor Department and the Taxation and Revenue Department would need to work together and in conjunction with the EDD. Staff also said that much of the data is confidential or proprietary.

2006 Interim Work Plan and Meeting Schedule Development

Chase Van Gorder presented the committee with a draft work plan for the 2006 interim and a sheet containing ideas for meeting locations and agenda topics. Representative Mary Helen Garcia indicated that she and Senator Bernadette M. Sanchez had met with representatives of the Governor's Office earlier in the day and that the administration would like the committee to consider the GRIP II program, the governor's "Wire New Mexico" program and arts trails. Members of the committee mentioned the following topics and topics that they would like to see addressed by the committee during the 2006 interim: individual development accounts (the Families Opportunity Act); development incentives; alternative energy sources and how to increase the availability of energy power lines so that power generated by such sources can get to market; historical development and the New Mexico MainStreet program; obstacles to the development of small businesses; the ability of the Construction Industries Division of the Regulation and Licensing Department to handle its work load in a timely manner; the statutory definitions of "rural"; regulatory impediments to development; the effectiveness of tax incentives in stimulating economic development; the state of the economic partnership program; availability of high-speed telecommunications statewide; "predatory" companies; eminent domain; alcohol licensing; and the status of the horse racing industry.

Suggested locations for committee meetings during the interim included Ruidoso, Tucumcari, Santa Rosa, Las Cruces and Deming. Following the committee's discussion of the draft work plan, the staff was requested to revise it in accordance with the committee's discussion for approval by the chair and submission to the Legislative Council.

On a motion by Representative Andy Nunez, seconded by Representative Patricia A. Lundstrom, the committee voted without opposition to write a letter to the Public Regulation Commission to inquire about the status of the Rural Extension Fund. On a motion by

Representative Lundstrom, seconded by Senator Clinton D. Harden, Jr., the committee voted without opposition to write a letter to the president pro tempore of the Senate and the speaker of the house requesting that committee members be given permission to attend the 2006 Assets Learning Conference to be held on September 19-21 in Phoenix, AZ.

Adjournment

There being no further business before the committee, the first meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was adjourned at 4:17 p.m.

Revised: July 20, 2006

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**July 24-25, 2006
Gallup, New Mexico
Grants, New Mexico**

Monday, July 24 — Gallup High School, Gallup

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Pittsburgh & McKinley Coal Mining Reclamation Project —
McKinley North Mine**
—Frank Rivera, Senior Mine Engineer/Environmental, Pittsburgh & Midway
Coal Mining Company
—Jerry Sandoval, Native American Liaison, Economic Development
Department
—Allan Begay, Director, Division of Economic Development, Navajo Nation
—Wynette Arviso, J.J. Clacks & Associates
- 11:30 a.m. **Inter-Tribal Ceremonial — Status Update**
—Louie Bonaguidi, President, Gallup Inter-Tribal Ceremonial
—Joshua Rosen, Deputy Secretary, Tourism Department
- 12:00 noon **Lunch**
- 1:00 p.m. **Red Rock State Park — Status Update**
—Glen Benefield, Executive Director, Economic Development Office, City
of Gallup
—Herb Mosher, Executive Director, Gallup Chamber of Commerce
- 2:00 p.m. **Small Business Development Centers — Status Update**
—J. Roy Miller, State Director, New Mexico Small Business Development
Centers
—Elsie Sanchez, Director, Gallup Small Business Development Center

3:00 p.m. **McKinley County Cultural Enterprise Network — Arts Trails**
—Loie Fecteau, Executive Director, New Mexico Arts, Cultural
 Affairs Department
—Evan Williams, Planner, Northwest New Mexico Council of Governments
—Tom Kennedy, Director, Tourism Department, Pueblo of Zuni (Invited)

4:00 p.m. **Recess**

Tuesday, July 25 — Coyote del Malpais Golf Course, Grants

9:00 a.m. **Call to Order**

9:05 a.m. **Welcome**
—Joe Murrietta, Mayor, City of Grants

9:15 a.m. **Power Plants in Northwest New Mexico — Economic Impact**
—Marshall Plummer, Government Affairs Manager, Arizona Public Service
—Russell Huffman, Plant Manager, PNM San Juan Generating Plant
—Freddy Sanches, Vice President, Sithe-Global
—Stephen C. Begay, General Manager, Diné Power Authority

10:30 a.m. **Wire New Mexico — Status Update**
—Art Jaramillo, Secretary, General Services Department (GSD)
—John J. Martinez, Director, Communications Division, GSD
—Roy Soto, Chief Information Officer
—Senator Leonard Tsosie, Internet to the Hogan Project

12:00 noon **Lunch**

1:00 p.m. **Adjourn**

**MINUTES
of the
SECOND MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**July 24-25, 2006
Gallup, New Mexico
Grants, New Mexico**

The second meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was called to order by Representative Mary Helen Garcia, chair, on Monday, July 24, 2006, at 10:08 a.m. in the Commons Areas of Gallup High School in Gallup.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Hector H. Balderas (7/24)
Sen. Mary Jane M. Garcia
Sen. Clinton D. Harden, Jr.
Sen. Carroll H. Leavell (7/24)
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez (7/24)
Rep. Kathy A. McCoy
Sen. John Pinto
Sen. William E. Sharer
Sen. Leonard Tsosie (7/24)

Advisory Members

Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Sen. Lidio G. Rainaldi
Rep. Debbie A. Rodella (7/25)
Sen. John C. Ryan (7/25)

Absent

Rep. Jose A. Campos
Rep. Daniel R. Foley
Rep. Dianne Miller Hamilton
Rep. Andy Nunez

Sen. Phil A. Griego
Rep. John A. Heaton
Rep. Ted Hobbs
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Sen. Steven P. Neville
Rep. Al Park
Sen. Shannon Robinson
Rep. Harriet I. Ruiz
Rep. Richard D. Vigil

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Gordon Meeks
Lindsey Bilovesky

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Monday, July 24**Welcome**

Bob Rosebrough, mayor of the City of Gallup, introduced himself and welcomed the committee to the city. He thanked the legislators for their support of the city and presented Representative Garcia with a key to the city.

Pittsburgh and Midway Coal Mining Reclamation Project, McKinley North Mine

Wynette Arviso with J.J. Clacs & Associates is the principal in charge of formulating a reuse plan and feasibility study for the McKinley North Mine operated by the Pittsburgh and Midway Coal Mining Company. That study was the result of a \$100,000 appropriation from the state, which was matched by the Navajo Nation. The study's purpose is to determine which facilities and structures should remain after the closure of the mine scheduled for 2008 and to provide a conceptual plan for the post-closure use of that land. Approximately 350 current employees will be displaced. The mining company has not provided detailed information about the workforce but did provide one sheet of summary employment statistics. Ms. Arviso generally described the mining site and the facilities currently located on-site, which include a main office building with adjoining maintenance facilities, a warehouse and railroad tracks. She described general concepts for the reuse of the property, including industrial and commercial use, grazing, wildlife habitat and recreation, and ideas for the redevelopment of transportation corridors. At this point in time, only a few options for use of the property by other entities have been identified, including a metal recycling facility, a biodiesel plant, the Navajo Agricultural Products Industries and a landfill. At most, the projected uses of the property would have an employment force of 50. Also present for the presentation and available to answer questions were Frank Rivera, senior mine engineer/environmental, Pittsburgh and Midway Coal Mining Company, Roy J. Cleveland, Division of Economic Development, Navajo Nation, and Tim Hagaman, community development representative, Economic Development Department. It was noted that the principal reason for the mine closure is that it has reached the limits of economically viable coal reserves, although the closure date has now been pushed back to 2009.

Questions from committee members concerned demographics of the workers at the mine (gross payroll, age groups of employees and wage rates), the number of employees who will be terminated (whether retired or not) and their potential retraining and employment elsewhere, notice requirements pursuant to the federal Warren Act, bonding requirements related to the mine closure and the involvement of the Economic Development Department in planning for the future of this site and the employment of the displaced workers.

The committee unanimously approved a motion that a letter be written to the secretary of economic development requesting that the Economic Development Department study and prepare an economic development plan for the reuse of the mine site and the reemployment of

the displaced workers. The committee members also requested staff to brief them on the notice provisions of the federal Warren Act and any similar state statutes.

Gallup Inter-Tribal Indian Ceremonial

Josh Rosen, deputy director of tourism and acting director of the Intertribal Ceremonial Office, Louie Bonaguidi, President of the Gallup Inter-Tribal Indian Ceremonial, and Joe Tanner, vice president of the Gallup Inter-Tribal Indian Ceremonial, appeared before the committee to present an update on the ceremonial for 2006. As a result of legislation passed during the 2006 session, the ceremonial has come back under the auspices of the state and, specifically, the Tourism Department. Mr. Rosen indicated how state funds had been allocated for the 2006 ceremonial and plans for the new State Intertribal Ceremonial Office for fiscal year 2007. Mr. Bonaguidi and Mr. Tanner briefed the committee on the history of the ceremonial, which will have its eighty-fifth anniversary in 2006, and reviewed its financial arrangements. On a motion by Representative Lundstrom, seconded by Senator Garcia, the committee voted without opposition to schedule the committee's meeting in Gallup during the 2007 interim to coincide with the Gallup Inter-Tribal Indian Ceremonial.

Red Rock State Park

Glen Benefield, executive director of the City of Gallup Economic Development Office, Herb Mosher, executive director of the Gallup Chamber of Commerce, and David Simon, director of New Mexico State Parks, briefed the committee on the current status of Red Rock State Park. Red Rock State Park was created in the 1970s when the Gallup Inter-Tribal Indian Ceremonial was moved from its location at the former armory in order to accommodate traffic from Interstate 40. The City of Gallup used state funds to purchase the privately owned 600 acres that became Red Rock State Park. The park was completed in the late 1980s following an expenditure of approximately \$11 million. In 2001, control of Red Rock State Park was privatized and the City of Gallup has recently invested over \$900,000 in improvements to upgrade the park. In 2005, the Gallup City Council voted unanimously to revert control of the park to the state if the state agreed to appropriate approximately \$5 million to bring the park into compliance with the Americans with Disabilities Act. The presenters reviewed the scope of activities that are held at the park, including hosting the Wrangler Junior High Finals Rodeo through 2009, and reviewed the economic benefits accruing to the community and the state through these activities. The Gallup Chamber of Commerce has recommended the following: 1) the state and the City of Gallup should enter into a joint powers agreement to develop the park and provide for private sector management and marketing of the park; 2) at least \$6.5 million should be allocated from the New Mexico Rodeo Council to establish a national youth development rodeo center at the park; and 3) the state should allocate \$5 million for improvements required to bring the park into compliance with the Americans with Disabilities Act. It was noted that without the improvements to the park to accommodate disabled patrons, the park will be shut down.

On a motion by Senator Pinto, seconded by Representative Lundstrom, the committee voted without opposition to endorse a \$5 million appropriation to bring Red Rock State Park into compliance with the Americans with Disabilities Act. On a motion by Representative Lundstrom, seconded by Senator Harden, the committee voted without opposition to request the New Mexico Rodeo Council to appear at the committee's meeting in Las Cruces to brief the

committee on the activities of the council and to explore ways in which the council can assist in supporting the rodeo activities scheduled for Red Rock State Park.

Minutes

A motion was made and seconded to approve the minutes of the June 13, 2006 meeting of the Economic and Rural Development and Telecommunications Committee as presented to the committee. The motion was approved without opposition.

Small Business Development Centers

J. Roy Miller, state director of the New Mexico Small Business Development Centers, updated the committee on his organization. The mission is to provide quality direct assistance, entrepreneurial education and resource links for potential and existing businesses to strengthen the state's economy. Core values include exceptional client service, enhanced partnerships, visionary leaders, continuous improvement and community and resource accountability. Mr. Miller presented statistics regarding clients served during fiscal year 2006 and legislative funding priorities for the 2007 legislative session.

Elsie Sanchez, director of the Gallup Small Business Development Center, briefed the committee on the areas served by her organization, statistics for services rendered during fiscal year 2006 and resource partners that the center has utilized. The Gallup center is still housed at the Gallup Chamber of Commerce but is looking for larger available office space.

Arts Trails and McKinley County Cultural Enterprise Network

Loie Fecteau, executive director of New Mexico Arts within the Cultural Affairs Department, described the fiber arts trails program that has recently been implemented in New Mexico as a result of a nonrecurring appropriation passed during the 2006 legislative session. This program enables fiber artisans to work at home and directs potential customers to their homes. She described generally the eligibility criteria, how applications for inclusion in the trail are due on September 1 and that the trail guides are expected to be available next spring. It is hoped that in the future there will be guides for arts trails for other types of arts and crafts.

Evan Williams, a planner with the Northwest New Mexico Council of Governments, briefed the committee on the McKinley County Cultural Enterprise Network (Network). The Network aims to link local museums and cultural enterprises into a distinguished and marketable network. All museums and cultural enterprises in the Network will retain individual control and identity but will avail themselves of advantages of the Network, including the ability to share resources, staff, office space and expertise; prepare and receive benefits from joint applications for funding; and share co-marketing and collateral resources. The Network aims to increase tourism and economic opportunity by linking county museums and cultural enterprises while also supporting the education of local residents; the preservation of historical records, artifacts and culture; and enhancing the quality of life in Gallup and McKinley County. The Network project was initiated in 2002 and Phase I, consisting of a planning and feasibility assessment, was undertaken in 2003 with state funding. The feasibility study has been completed and has received broad-based community support. Phase II of the Network will involve the preparation of an initial scope of work. The Northwest New Mexico Council of Governments is also

supporting tourism through Adventure Gallup and Beyond and the Native Heritage Trail in addition to the Network.

The meeting was recessed by Representative Lundstrom at 4:20 p.m.

Tuesday, July 25

The second meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was reconvened by Representative Garcia on Tuesday, July 25, 2006, at 9:05 a.m. at the Coyote del Malpais Golf Course in Grants.

Welcome

Joe Murrieta, mayor of the City of Grants, welcomed the committee to Grants and to the facilities at the municipal golf course.

Cooperative Advertising Program

Sharlene Begay-Platero, industrial development representative with the Navajo Nation Division of Economic Development, and Margaret Mitchell, director of the San Juan Economic Development Service, spoke to the committee about the need to increase state funding for the Economic Development Department's Cooperative Advertising Program. In recent years, the private sector has become increasingly involved in marketing unique community and regional economic resources to foster new economic development in the state's communities. Such locally based advertising is essential in order for communities to promote their individual strengths and goals. The Cooperative Advertising Program permits the state's rural communities to leverage their limited financial resources for increased advertising. Current state funding is only \$200,000 per year as compared to \$450,000 in 1989; a significant cut in funding was imposed four years ago. As a result, local communities are limited to \$15,000 in advertising assistance and the limited available funding discourages responses to requests for proposals. The New Mexico Industrial Development Executives Association strongly encourages an increase in available state funding to \$600,000 for fiscal year 2008.

On a motion by Representative Lundstrom, seconded by Senator Garcia, the committee voted without opposition to write a letter to the Legislative Finance Committee endorsing an increase to \$600,000 for fiscal year 2008 in funding for the Economic Development Department's Cooperative Advertising Program.

Economic Impact of Power Plants in Northwest New Mexico

Marshall Plummer, governmental affairs manager for Arizona Public Service, gave an overview of the operations of the Four Corners Power Plant. The plant was built in the early 1960s and is the eighteenth largest plant in the country, providing power to New Mexico, El Paso, Arizona and southern California. The plant is located entirely within the Navajo Nation and the legislature removed the double taxation several years ago. Seventy-five percent of the workforce (about 590 persons) are Navajo with an annual payroll of about \$65 million. This power plant, along with BHP Billiton coal mining operations, provides \$58 million per year to the budget of the Navajo Nation (almost one-half of the nation's annual budget), which supports

chapters in New Mexico and Arizona. Twelve cents of every dollar goes into the Navajo Nation Permanent Fund. Approximately \$32.7 million is paid annually in state and federal taxes. A major overhaul of the plant is scheduled to begin in 2008 at a cost of \$62 million.

Russell Huffman, San Juan Generating Station plant manager, and Art Hull presented to the committee regarding the economic impact of the Public Service Company of New Mexico (PNM) and its San Juan Generating Station. PNM is the eighth largest private company in New Mexico with 3,500 employees and the largest provider of natural gas and electricity in the state. The San Juan Generating Station is a 30-year-old coal-fired power plant, the twenty-seventh-largest power plant in the nation. Coal for the plant comes from the BHP Billiton Coal Mine, which provides 6.6 million tons of coal annually. Sixty percent of the power produced by the plants goes to PNM's New Mexico customers. In 2005, the plant employed 402 full-time employees and 150 contractors with a combined payroll of \$44.7 million. Four million dollars was paid in property taxes and \$65 million was paid in royalties for coal deliveries. The presenters reviewed the ways in which the plant supports the surrounding community and the environmental impact and performance of the plant. Planned improvements at the plant will reduce the environmental impact of the plant's operations and increase state and local tax revenues due to increased spending (\$265 million) during the upgrade.

Freddy Sanches, vice president with Sithe Global Power, and Stephen C. Begaye, general manager of the Diné Power Authority (DPA), briefed the committee on the present status of the Desert Rock Energy Project. The project is being done in cooperation with the Navajo Nation and will result in a state-of-the-art 1,500 megawatt coal-fired power plant located adjacent to the existing BHP Billiton Coal Mine. The project is moving forward. A water agreement has been approved and the plant will utilize only 20 percent of the water normally used by such plants. The Navajo Nation has approved a land lease. A draft air permit has been issued by the Environmental Protection Agency and a draft environmental impact statement is scheduled to be issued in September. Construction of the plant will take four years and involve 1,000 construction jobs with total wages exceeding \$550 million. Once operating, the plant will generate 200 jobs at the plant and an additional 200 jobs at the coal mine with total wages at \$16 million per year. It is estimated that \$350 million in taxes will be realized from construction through the first 25 years of operations; \$90 million to San Juan County and \$260 million to the state. Corporate state income taxes for that same period are estimated at \$250 million. It is also estimated that the plant will contribute \$50 million annually to the Navajo Nation. Mr. Sanches also reviewed planned infrastructure improvements for surrounding chapters of the Navajo Nation. One issue that has yet to be resolved is state action regarding a reduction in the compensating tax to be paid; this was the subject of legislation in the 2006 session and there will be another proposal for the 2007 legislative session. Following Mr. Sanches' presentation, Mr. Begaye explained to the committee the nature of DPA and its involvement in the Navajo Transmission Project (NTP). The NTP is a proposed 470 mile 500 kilovolt transmission line running from Shiprock to Boulder City, Nevada. DPA also has an option to become an equity owner in the Desert Rock Power Project.

In the course of questioning from committee members, concern was expressed regarding the number of Navajo families (37 percent) in the areas affected by these power generating plants that do not have electricity in their homes. The presenters indicated that their facilities are

generating plants and are incapable of providing electricity in a form that could be utilized by domestic customers. There was a discussion of the compensating tax bill that was considered during the 2006 legislative session. An amendment to the original proposal would have provided funds that could have been used for power line extensions to rural homes. The committee voted to send a letter to regional distributors of electricity asking from whom they are purchasing electricity and what their plans are to extend domestic electrical service to homes not presently served by electricity.

WIRE New Mexico

Arturo Jaramillo, secretary of general services, John Martinez, director of the Communications Division of the General Services Department, and Roy Soto, chief information officer, appeared before the committee to present the WIRE New Mexico Program. WIRE New Mexico is an infrastructure project that will enable the state to implement a high-speed, high capacity communications system that will include data, voice and video throughout the state. This project will allow for state-of-the-art connectivity among state agencies, ultimately helping them to better serve the residents of New Mexico. The business objectives for the state network architecture are efficient delivery of client services by state agencies; continuing implementation of a single statewide, integrated telecommunications backbone for state government; leveraging existing state-owned resources to reduce recurring costs; and reducing statewide, bottom line costs for communications. The technical objectives for the state network architecture are to integrate existing digital microwave network and other state-owned resources into one state system; protect network continuity and security; and ensure adequate and scalable bandwidth for present uses and future growth. The presenters reviewed the existing communications network for state agencies across the state, including the digital microwave network that since has 1999 been upgraded from an analog network at a cost of over \$25 million. The fiber backbone along the Rio Grande corridor is scheduled to be operational in August 2006, and future phases include fiber backbones in the southeast, northeast and northwest areas of the state. In addition to the fiber backbones, WIRE New Mexico also includes metropolitan area networks in Santa Fe, Albuquerque and other smaller cities throughout the state. The project is expected to be completed at the end of fiscal year 2008. There was discussion about concern on the part of private telecommunications companies that implementation of this statewide network would result in a significant loss of current income for those companies. An informal task force is presently meeting to address this concern.

Adjournment

There being no further business before the committee, the second meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was adjourned at 1:03 p.m.

Revised: August 23, 2006

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**August 24-25, 2006
Tucumcari, New Mexico
Santa Rosa, New Mexico**

Thursday, August 24 — Convention Center, Tucumcari

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Welcome**
—Mary Mayfield, Mayor, City of Tucumcari
- 10:15 a.m. **New Mexico Rural Development Response Council**
—Bill McCamley, Executive Director
—Keven Groenewold, President
- 11:00 a.m. **GRIP II Program**
—Muffet Foy Cuddy, Chief, Programs Division, Department of Transportation
—Patricia Oliver-Wright, Manager, Strategic Planning Section, Programs
Division, Department of Transportation
- 12:00 noon **Lunch**
- 1:00 p.m. **Power Transmission Capacity Limitations**
—David Eves, CEO, Xcel Energy
—Keven Groenewold, Rural Electric Cooperative Association
—Greg Miller, Public Service Company of New Mexico
—Robert Kondziolka, Salt River Project
- 2:30 p.m. **Clean Energy Program Initiatives**
—Joanna Prukop, Secretary, Energy, Minerals and Natural Resources Department
—Craig O'Hare, Special Assistant for Renewable Energy, Energy, Minerals and
Natural Resources Department
—Odes Armijo-Caster, Principal, Sacred Power Corporation

4:00 p.m. **Qwest Alternative Form of Regulation — Settlement Review**
—Leo Baca, Qwest Corporation
—Arturo Jaramillo, Secretary of General Services
—Brian Harris, Attorney General's Office

5:00 p.m. **Recess**

Friday, August 25 — Santa Rosa High School, Santa Rosa

9:00 a.m. **Call to Order**

9:05 a.m. **Welcome**
—Representative Jose A. Campos, Mayor, City of Santa Rosa

9:15 a.m. **Payday Lending in New Mexico — Administrative Rules**
—Stuart Bluestone, Office of the Attorney General
—Mike Vargon, Deputy Director, Regulation and Licensing Department
—David Gee, Financial Institutions Division, Regulation and Licensing Department

10:00 a.m. **Payday Lending in New Mexico — Industry Response to Administrative Rules**
—John Rabenold, Vice President of Governmental Affairs, Check 'n Go
—Steve Solomon, Vice President and General Counsel, Fast Bucks
—David Seely, President and Chief Executive Officer, Kirtland Federal Credit Union

11:00 a.m. **Payday Lending in New Mexico — Consumer Advocate Response to Administrative Rules**
—Jeanne Bassett, Executive Director, New Mexico Public Interest Research Group
—Clarice Getz, New Mexico AARP
—Navajo Nation Representative (TBA)
—Dale M. Vande Hey, Quality of Life Southwest Regional Liaison, Department of Defense

12:00 noon **Payday Lending in New Mexico — Public Comment**

1:00 p.m. **Adjourn**

**MINUTES
of the
THIRD MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**August 24-25, 2006
Tucumcari, New Mexico
Santa Rosa, New Mexico**

The third meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was called to order by Representative Mary Helen Garcia, chair, on Thursday, August 24, 2006, at 10:15 a.m. in the Tucumcari Convention Center.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Hector H. Balderas
Rep. Jose A. Campos
Rep. Daniel R. Foley (8/24)
Sen. Clinton D. Harden, Jr.
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Rep. Kathy A. McCoy
Sen. John Pinto
Sen. Leonard Tsosie (8/25)

Advisory Members

Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. John A. Heaton
Rep. Al Park (8/25)
Sen. Lidio G. Rainaldi
Rep. Debbie A. Rodella (8/25)
Rep. Richard D. Vigil

Absent

Sen. Mary Jane M. Garcia
Rep. Dianne Miller Hamilton
Sen. Carroll H. Leavell
Rep. Andy Nunez
Sen. William E. Sharer

Sen. Phil A. Griego
Rep. Ted Hobbs
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Sen. Steven P. Neville
Sen. Shannon Robinson
Rep. Harriet I. Ruiz
Sen. John C. Ryan

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Gordon Meeks
Larry Matlock

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Thursday, August 24**Welcome**

Mary Mayfield, mayor of Tucumcari, welcomed committee members to the city and thanked them for their support of the city over the years. She commented on the road construction currently underway on the main street of the city and expressed appreciation to the Department of Transportation for its work in helping to improve downtown Tucumcari.

New Mexico Rural Development Response Council

Keven Groenewold, president of the New Mexico Rural Development Response Council, reviewed the history of the council, noting that it had been formed 15 years ago with financial assistance from the federal government. Federal funding has diminished over the years, but the 2006 legislature approved \$400,000 to support the council, all of which was vetoed by the governor. After representatives of the council met with the governor, \$100,000 was approved to support the council. The focus of the council's activities is rural readiness — getting rural communities ready for economic development.

Bill McCamley, executive director of the New Mexico Rural Development Response Council, reviewed the mission and accomplishments of the council. The council works only with rural communities with populations of 15,000 or less. Its mission is to strengthen rural communities through collaborative partnerships by building networks, bringing people and organizations together to solve local problems, removing barriers and creating opportunities. The council looks at what the community wants — what the community's interests and resources are. The council assists with the selection, planning and development of specific projects and collaborates with partners for additional assistance and completion. One area of projects is Youth-to-Jobs Program projects, based upon a program in Harding County where a Future Farmers of America welding program was used to train workers for jobs. Six communities (Cimarron, Maxwell, Fort Sumner, Logan, Grady and Tatum) are experimenting with an innovative strategy to use rural schools as job incubators to keep young people from leaving the community in search of employment.

The council is also involved in the USDA Rural Community Development Initiative to assist rural communities with housing and economic development projects. The council recently signed contracts to assist 10 communities under this program (El Rito, Eunice, Hatch, Lordsburg, Magdalena, Raton, Reserve, Santa Clara, Santa Rosa and Tucumcari). The council is working with Clayton, Fort Sumner and Cuba to assist with developing worker housing plans. The council is working with the Pueblo of Santo Domingo in the development of an adobe housing nonprofit organization and with the Mescalero Apache Tribe to acquire an economic development director. The council received a two-year \$200,000 USDA Rural Business Enterprise Grant to assist local economic development organizations to develop specific projects within the private sector.

The council will be asking for \$420,000 in state assistance for fiscal year 2008 as follows: \$200,000 to hire community directors for the Youth-to-Jobs Program, \$100,000 to continue the Rural Community Development Initiative, \$100,000 to continue assistance to tribal communities and \$20,000 to match private funds for the Youth-to-Jobs Program.

Upon questioning by committee members, it was observed that there is a need for better communication between the Labor Department (Office of Workforce Training and Development) and the Economic Development Department. There is also a need for one comprehensive source of resources that local communities can use for economic development.

Cooperative Advertising

Peter Kampfer, executive director of the Greater Tucumcari Economic Development Corporation, briefed the committee on the activities of his organization and explained the use and importance of cooperative advertising dollars. During the last legislative session, only \$200,000 was authorized statewide for such purposes. Of those funds, his organization received only \$4,000. That amount of funding does not go far when its web page alone costs \$6,000. He asked the committee to support increased state funding for economic development cooperative advertising dollars in the coming legislative session.

GRIP 2 Program

Muffet Foy Cuddy, chief of the Programs Division of the Department of Transportation (DOT), and Patricia Oliver-Wright, manager of the Strategic Planning Section of the Programs Division, DOT, presented an overview of the GRIP 2 Program. GRIP 1 addressed statewide critical transportation needs and dealt with roads that were eligible for federal aid. GRIP 2 is intended to address local critical transportation needs and to tie state and local roads into a seamless system. Existing resources provide only minimum maintenance and repair and there is no source of large scale funds to address critical local transportation needs. In 2005, the DOT conducted seven workshops statewide to identify local transportation needs. Working through municipal and regional planning organizations, 33 counties, 103 municipalities and 22 tribal governments were asked to identify their top three transportation needs. A total of more than 400 projects were identified by 139 entities with an estimated cost of \$2.5 billion. The DOT then conducted a screening process and worked with those entities to identify their absolute number one priority, refined project scopes and costs and identified when the projects could be ready for construction.

To address challenges faced by local communities, the DOT proposed to assist with project development and management, provide engineering assistance and establish a sliding scale for matching funds based upon a project's total cost. Legislation introduced in 2006 provided for \$250 million in funding assistance for 110 projects and included \$500,000 for engineering support statewide. This proposal was not passed in 2006 and will be resubmitted for the 2007 legislative session. The DOT is requesting that the municipal and regional planning organizations work with local communities to update and revise as necessary proposed local transportation projects. Committee members then reviewed several of the projects that had been part of the 2006 proposal. It was suggested that the DOT revisit the dollar amount to reflect the recent increases in construction costs. There was also a request that a revised timetable be prepared for implementation of the State Transportation Improvement Plan. It was noted by the

DOT that there will be a legislative proposal for the next session addressing the needs of transit systems.

Power Transmission Capacity Limitations

David Eves, CEO of Xcel Energy, told the committee that Xcel Energy is the number one transmission company for wind power. He said that the United States power grid is really three grids that are theoretically hooked together to operate in synchrony. New Mexico is connected directly to two of those grids. He explained that power has to be converted from AC to DC and back to move across the grids. He explained that transmission is the biggest impediment to further development of wind energy in New Mexico. It takes long lead times to build transmission capacity, and states need to provide cost recovery incentives for utilities to invest in transmission. Xcel Energy operates in 10 different states, so it knows the variety of incentives available. It is nice to have facilities before they are needed, he explained. He said that having two different grids dividing the state facilitates wind energy market development and that companies need cost recovery incentives to make New Mexico more competitive as a location for investments in the grid.

Keven Groenewold, executive vice president and general manager of the New Mexico Rural Electric Cooperative Association, explained to the committee that there are 19 electric co-ops in New Mexico; four in the southeast part of the state get their wholesale power supply from SPS and 12 others are wholesale customers of Tri-State. The rural co-ops serve 190,000 to 200,000 meters, about 80 percent of the land area in the state. Current transmission expansion projects in New Mexico are mostly Tri-State's. He mentioned a new power plant near Springerville, Arizona, that is hooking into new transmission lines. He pointed out that with a new unit and retrofitting of an existing unit, emissions of nitrous oxides are less than what they were previously for the two units. He said there are also planned enhancements for the western corridor and Four Corners area to serve New Mexico and southwest Colorado. In northeast New Mexico, a new 230-kilowatt line is going in to run from 25 or 30 miles east of Springer to Walsenburg, Colorado. He explained that the northeast part of New Mexico has been transmission deficient for a number of years. Upon completion of the line, it will be fully loaded in two to three years because of pent-up demand. At that time, a prison may be added and the dairy industry might boom. Power for irrigation might be transferred to electric from natural gas. The future may see an additional line headed south to connect with the PNM line around Algodones, which runs to the Blackwater Draw south of Clovis.

Mr. Groenewold also briefly described the southeast electric utility situation of the four co-ops there, which have transmission constraints of their own. They are part of the southwest power pool. Timely information is a problem for planning new loads in that area. Another problem for these co-ops is that their wholesale contracts will come due in the next nine years, which puts them in an inferior negotiating position.

Mr. Groenewold concluded by saying the rural co-ops association supports the Renewable Energy Transmission Authority (RETA) as a way to increase wind energy development, which can be a hedge against natural gas prices. He said the energy imbalance tariff is an obstacle. The tariff is a fee that the power distributors pay the control area operator who keeps the system in balance. He explained a very technical aspect of power transmission by saying wind-generated power has to be scheduled into the system by the control area operator.

Generation has to follow the load and voltage has to be maintained at the right level to keep the clocks running on time. If wind-generated power is underscheduled, the tariff mandates a fee of 10 cents per kilowatt hour to make it up or pay for the replacement cost, whichever is more. For wind energy, the question becomes who pays for the imbalance. Each of the two players, the generators and the distributors, are making it the other's obligation and this is causing a breakdown in negotiations.

He said that the rural co-ops have been using renewable energy for 40 years; for example, hydroelectric power and photovoltaic projects run off the grid. This can be cheaper than running a transmission or distribution line to a customer. The source of energy is not the problem per se; it is the power imbalance caused by a specific source at any given time that has to be balanced in the grid.

Finally, he said, the utilities must retain the right of eminent domain if expansion of the power transmission grid is to be possible, and court challenges and potential bills to address the recent United States Supreme Court decision may threaten the eminent domain power. This cannot be a New Mexico fix alone. A solution to the eminent domain question must be a regional or national fix, something that mirrors the interstate highway system. Power has to move around, and not just in one state.

Art Hull, PNM, showed the committee several maps and told the committee that PNM, Xcel Energy and the co-ops have to work together. PNM has the burden to make sure it works on a statewide basis because it has the largest part of the system; it is the largest provider of natural gas and electricity. PNM also supports the RETA. He explained a little of the role that PNM plays as the area control operator. Part of its responsibility in that role is to plan for growth and for smooth flow of electricity throughout the region during its growth. He said a growth rate of two or three percent per year is expected. He said there are some additional new lines coming into service, but it is difficult to project needs. For example, it was projected that there would be a peak demand of 1,773 megawatts now when, in fact, 1,855 is the actual level. Demand does not always meet with projections, he said. PNM plans for a 15 percent reserve margin and, in its planning, tries to balance placing power generation near people (demand) or site it remotely and move the power through transmission lines. The trade-offs are placing generation infrastructure near the fuel to reduce the cost of generation or placing it near demand to reduce transmission costs. New Mexico has had no additions to the transmission capacity since 1984, but customer demands have increased by 880 megawatts. Fixes and system improvements have been made to help absorb the additional demand, but the state is now at a point where the existing system cannot stretch much farther, he said. But when PNM tried to get a 13-mile transmission line built near Santa Fe, it spent \$14 million and five years on the project, only to be denied approval. Renewable energy sounds great, he said, but without more transmission capacity, regardless of the fuel, it will not happen. California does not want any transmission or distribution located there. He listed some of the bigger new power projects that together may help create a bigger pipeline and the tremendous economic opportunities associated with this additional power. But, he said, obstacles include: permitting processes, not-in-my-backyard opposition and costs. What is needed is cooperation, timely permitting, a RETA and certainty. This will require work with other states for effective collaboration.

Robert Kondziolka, with the Salt River Project in Arizona, echoed Mr. Hull by pointing out the key locations of power system gridlocks and bottlenecks. He said that the transmission dilemma definitely goes beyond the borders of New Mexico. Southern Nevada and Phoenix are the largest demand drivers now. The front range of Colorado, southern California and Seattle/Portland are other areas in the west that are driving demand for transmission expansion, which can be an economic boon to New Mexico. He said that much has changed over the last five years, making New Mexico a critical point in the geography of transmission capacity. Eastern New Mexico needs a stronger tie with Colorado and has an opportunity to tie into three lines in Arizona. The conversion issue of AC from DC is getting more critical because with allowing more transmission capacity via DC lines, more efficiencies can be gained. DC reduces the losses by half.

Questions and comments by the committee dealt with:

- condemnation rights, i.e., eminent domain powers under the Public Utility Act and the courts' role;
- four or five years in the courts before a transmission line could go through — this is unacceptable;
- congestion costs and load profiles;
- liability responsibility;
- appraisal value of a power line right of way;
- Public Regulation Commission's scope of authority;
- rate of electric demand increase (seven to 10 percent annually);
- jurisdiction of the Federal Energy Regulatory Commission;
- integration of renewable energy into the grid system (solar is easier);
- economic development benefits of alternative energy;
- costs of permitting (PNM's \$15 million over 12 years without approval of the line);
- joint review process;
- the number of jurisdictions with regulatory authorities over transmission lines;
- regional transmission organizations;
- transmission lines through the Navajo Nation and its sovereign authority to accept or reject a right-of-way agreement;
- ways to allow utilities to recover the cost of investments in transmission projects;
- compensation for a control area operator;
- ability of the United States to be competitive on the international marketplace and geopolitical conditions; and
- the co-ops problems with photovoltaic systems and the potential of financing the cost to install such solar collection systems for residential customers and put in a maintenance agreement.

Clean Energy Program Initiatives

Joanna Prukop, secretary, Energy, Minerals and Natural Resources Department (EMNRD), and Craig O'Hare, special assistant for renewable energy, EMNRD, briefed the committee on clean energy initiatives in New Mexico. Clean energy refers to renewable energy sources such as solar, wind, biomass and geothermal energy; energy efficiency measures for buildings, appliances, industry and transportation; and clean fuels, including ethanol, biodiesel, compressed natural gas, propane and hydrogen. New Mexico is second in the nation in available

solar resources. Solar energy can be used to produce electricity through photovoltaic applications and to provide heat. Large-scale central station solar generating stations can utilize concentrated solar power to generate substantial amounts of power at costs competitive with new fossil fuel plants. Such generating stations exist or are under construction in California, Nevada and Spain. Large-scale wind energy generation is also competitive with new fossil fuel plants. New Mexico is now sixth in the nation in the production of wind energy, generating more than 400 megawatts.

New Mexico has taken numerous steps over the past five years to initiate clean energy programs. These programs include the 2004 hybrid vehicles excise tax exemption, the 2005 Efficient Use of Energy Act, the clean energy grants program, the renewable energy production tax credit, the utility renewable energy portfolio standard, the Public Regulation Commission (PRC) net metering rule, the 2006 solar market development income tax credit and the 2006 executive order requiring new state buildings to be energy efficient. Ongoing clean energy projects utilizing wind energy are operating or under construction that are capable of producing 400 megawatts of power, representing an investment of more than \$500 million. Other projects include ethanol plants in Portales and Clovis, a 35-megawatt biomass plant in Estancia and an advanced photovoltaic cell manufacturing plant.

Initiatives for the 2007 legislative session will include the proposed Renewable Energy Transmission Authority (RETA) Act. RETA will operate in a manner similar to the New Mexico Finance Authority and will provide for the planning, construction, financing and operation of transmission infrastructure. Other initiatives will be amendments to the existing renewable energy production tax credits, exempting concentrating solar power projects from gross receipts and compensating taxes, an Advanced Energy Product Manufacturers Tax Credit Act, continuing funding for clean energy grant programs and options for the promotion of renewable fuels utilization in New Mexico.

Odes Armijo-Caster, a principal owner of the Sacred Power Corporation, briefed the committee on the activities of that corporation. Sacred Power is a native New Mexican company and is principally a state and federal contractor in the field of renewable energy.

Qwest Alternative Form of Regulation — Settlement Review

Secretary of General Services Arturo Jaramillo addressed the committee to give the background history of the Qwest Alternative Form of Regulation (AFOR) litigation. In 2001, when Qwest was seeking to acquire United States West, Qwest entered into an AFOR agreement that permitted an increase in residential rates but also obligated Qwest to invest \$788 million in telecommunications infrastructure in New Mexico over a five-year period. The PRC subsequently determined that Qwest had failed to make the required infrastructure investments, ordered Qwest to increase its rate of investment and included a provision that may have resulted in refunds or credits to residential customers. Qwest challenged the PRC's order in state district court. In June 2006, the New Mexico Supreme Court affirmed the PRC's authority to issue the order enforcing Qwest's investment obligations under the AFOR agreement. Although Qwest appealed the New Mexico Supreme Court's decision to the United States Supreme Court, it also entered into renewed settlement discussions with the state.

Secretary Jaramillo and Assistant Attorney General Brian Harris then reviewed the terms of the proposed settlement agreement and its benefit to New Mexico and its residents. Under the proposed settlement agreement, which is not final until approved by the PRC, Qwest will invest \$250 million over a 42-month period as follows: 1) extend DSL lines to 83 percent of Qwest customers, up from 69 percent (\$81.3 million); 2) upgrade Qwest's wire centers to provide redundant service to avoid outages in the event of line breaks (\$23.1 million); 3) deploy advanced telecommunications technology projects (\$25 million); 4) implement a cable improvement project to identify and replace defective, deteriorating or aging facilities (\$25 million); and 5) implement a 42-month network improvement and capacity augmentation plan (\$95.6 million). In addition, Qwest will contribute \$5 million per year for three years to the Public Education Department's STRONG Program. To the extent that Qwest fails to fully expend the \$265 million settlement amount in the required time period, the shortfall will be credited to New Mexico customers over a 12-month period. Ben Ray Lujan, chair of the PRC, commented on the status of the proposed settlements and the PRC's position that it has no jurisdiction to consider the settlement so long as the decision of the New Mexico Supreme Court is under appeal. Leo Baca, representing Qwest, was present to respond to questions from committee members.

Warren C. Solomon then read a prepared statement on behalf of AARP criticizing the manner in which the settlement discussion took place and the resulting proposed settlement agreement.

The meeting was recessed by Representative Garcia at 5:30 p.m.

Friday, August 25

The third meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was reconvened by Representative Mary Helen Garcia, chair, on Friday, August 25, 2006, at 9:10 a.m. at the Santa Rosa High School.

Representative Campos, who also serves as the mayor of the City of Santa Rosa, welcomed the committee to Santa Rosa. City Administrator Tim Dodge then gave a PowerPoint presentation detailing the city's efforts at revitalizing downtown and spurring further economic development. Projects totaling \$16 million include renovation of the Johnson and Ilfield warehouses and the Pecos Theater, relocation of city offices, development of a downtown plaza, dredging of the Blue Hole and park improvements.

Payday Lending in New Mexico — Administrative Rules

Deputy Attorney General Stuart Bluestone and representatives of the Financial Institutions Division (FID) of the Regulation and Licensing Department briefed the committee on the background of the rules recently promulgated by the FID to regulate the payday lending industry and on the specifics of those rules scheduled to be implemented on August 31, 2006. The rules represent a compromise between those who want to see traditional payday loans banned, as is the case in 14 states, and those who view payday loans as a necessary financial resource for a population that would otherwise not have access to credit. The rules permit payday loans but contains provisions to protect consumers from the cycle-of-debt problem. The rules provide that a consumer may renew a debt twice and then has the right to enter into a 130-

day payment plan at no cost. This period, totaling 172 days, is intended to give a consumer an adequate opportunity to repay a payday loan. Charges for such loans are capped at \$15.50 per \$100 for the initial loan and each of the two renewals. This fee is well within the range of fees permitted in other states that restrict payday loan fees. A consumer will not be able to borrow in excess of 25 percent of the consumer's gross monthly income. There will be a real-time statewide database system that will be used to enforce restrictions on the number and amount of payday loans available to a consumer.

Payday Lending in New Mexico — Industry Response to Administrative Rules

John Rabenold, vice president of governmental affairs for Check 'n Go, spoke on behalf of a national trade association for the payday lending industry. He was a member of the Governor's Payday Lending Task Force in 2005, which worked on drafting a bill that would address the cycle of debt, impose caps on fees and implement industry best practices. The industry is supportive of meaningful reform and supported House Bill 409 during the 2006 legislative session. Concerns about the promulgated rules include the mandatory cooling-off period for certain consumers that utilize payday loans, confusion regarding the 14-day period during which a consumer may opt to renew a payday loan and the use of a statewide database. He commented, however, that interested parties should not let perfection get in the way of appropriate reforms.

Craig Parr spoke on behalf of Consumer Lending Advocates, Inc., a New Mexico-based association of payday lenders. He presented the committee members with copies of 965 customer surveys regarding payday lending rules. The great majority of customers disagree with imposing limits on how much consumers can borrow and with the implementation of a statewide database. He believes that the \$15.50 rate cap will put small lenders out of business.

David Seely, president and chief executive officer of the Kirtland Federal Credit Union, explained the loan products his institution makes available to members of the military and efforts it makes to assist customers to be responsible in their financial practices. These efforts include education on financial literacy for all first-term airmen assigned to Kirtland Air Force Base as well as for other customers; low-cost loans, including unsecured loans at rates less than the 18 percent annual percentage rate (APR) that is the maximum rate set by the Federal Credit Union Act; and free checking accounts with overdraft privileges. He believes a statewide usury limit of 36 percent APR is needed to effectively eliminate predatory lending practices. He also advocates for strong disclosure requirements, prohibiting the extension of credit without regard to a consumer's ability to repay and prohibiting loan contract provisions limiting the legal rights of consumers.

Payday Lending in New Mexico — Consumer Advocate Response to Administrative Rules

Jeanne Bassett, executive director of the New Mexico Public Interest Research Group (NMPIRG), advised the committee that NMPIRG has identified three problem areas in the rules recently promulgated by the FID. First, installment lenders are exempt from the new rules. As has happened in other states, payday lenders will turn themselves into installment lenders and avoid the fee and other restrictions imposed by the new rules. Second, the limit on the number of permitted payday loan renewals can be avoided through consumers borrowing from multiple lenders. Third, if more than one database is authorized, it will be ineffective as an enforcement

tool. Also, it is important that the FID issue an annual report regarding the payday lending industry within the state. She stressed that the essential problems with payday loan establishments are that they force consumers to repay loans in too short of a time period and they charge unnecessarily high fees.

Clarice Getz addressed the committee on behalf of AARP New Mexico. AARP has been particularly concerned with the "cycle-of-debt" problem created by payday loans. Rules need to address interest rates, loan terms and length of loans. Unless there is a unified database, there is no way to effectively enforce the FID rules. The rules do not provide for punitive measures if a payday lender violates the rules. AARP advocates a monetary cap on the amount of payday loans that can be accrued by a consumer, the ability of consumers to opt for a payment plan, a single-loan limit on payday loans, one unified database and a cooling-off period for consumers who continuously utilize payday loans.

Zachary Klein, managing attorney for the Fort Defiance Agency Office of the DNA-People's Legal Services, told the committee of his experiences dealing with clients who had gotten into trouble using payday loans. He expressed the following concerns with payday loans and the FID rules: 1) there needs to be a cap on the permitted APR for payday loans; 2) payday loans do not help clients improve their credit rating or financial situation; 3) the state should move forward cautiously as the rules add legitimacy to bad practices; 4) the rules should be applied to installment loans and the amount of loans should be limited to what a consumer could actually repay; 5) the rules do not address the underlying socio-economic conditions; 6) payday loans are not good for the larger community and the interest rates result in a loss of resources available for discretionary spending; and 7) financial institutions need to find an appropriate alternative to high-interest payday loans.

Dale M. Vande Hey, Air Force Quality of Life southwest regional liaison, addressed the effect of payday lending on military personnel and preparedness. The federal Department of Defense recently released a report on predatory lending practices directed at members of the armed forces and their dependents. Payday lending has been identified as one of 10 key quality-of-life issues and is detrimental to service members who utilize this means of meeting a need for immediate cash. The solution to this problem has three parts: education, alternatives and statutory restrictions. Statutory restrictions should prevent payday lenders from circumventing usury limits; limit the APR for payday loans to less than 100 percent; restrict multiple loans and loan renewals; and require longer repayment periods.

Following the presentations by panel members, members of the audience were invited to give their comments to the committee.

Adjournment

There being no further business before the committee, the third meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was adjourned at 2:05 p.m.

Revised: September 25, 2006

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**September 27-28, 2006
Ruidoso Downs, New Mexico**

Wednesday, September 27 — Best Western Pine Springs Inn, Ruidoso Downs

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Welcome**
—L. Ray Nunley, Mayor, City of Ruidoso
—Bob Miller, Mayor, City of Ruidoso Downs
—Brad Treptow, Executive Director, Ruidoso Valley Chamber of Commerce
—Dr. Michael R. Elrod, Provost, Eastern New Mexico University - Ruidoso Branch Community College
- 10:15 a.m. **Hidalgo County Economic Development Plan**
—Representative, County Commission, Hidalgo County
—Jim Creek, Project Manager, New Mexico Border Authority
—Vicente Vargas, Specialist, New Mexico Department of Agriculture
- 11:00 a.m. **Wireless Networking Technology**
—Alex Charles, Chief Executive Officer, 4-Front Technologies
—Dr. Alfred Barr, Chair/General Manager, VCS Interactive, LLC
—Harold Skow, Division of Information Technology, Navajo Nation (Internet to the Hogan Program)
—Todd Romero, Crownpoint Institute of Technology (Internet to the Hogan Program)
- 12:00 noon **Lunch**
- 1:00 p.m. **Qwest Rural Extension Fund — Status Update**
—Ben Ray Lujan, Chair, Public Regulation Commission
—Michael Horcasitas, Director of Regulatory Affairs, Qwest
- 2:00 p.m. **Economic Partnership Program — Status Update**
—Clark Krause, Chief Executive Officer, New Mexico Economic Development Partnership
—Raymond Mondragon, Manager of Area Economic Development, ENMR Plateau
—Tom Phelps, Chief Executive Officer, ENMR Plateau
—Kelly O'Donnell, Deputy Secretary of Economic Development
- 3:00 p.m. **Economic Development Department — Update**

—Rick Homans, Secretary of Economic Development
—Kelly O'Donnell, Deputy Secretary of Economic Development

4:00 p.m. **WIRE New Mexico — Industry Comments and Response**
—Sam Ray, New Mexico Exchange Carrier Group (NMECG)
—Charlie Ferrell, NMECG
—Bill Garcia, NMECG
—Arturo J. Jaramillo, Secretary of General Services
—Roy Soto, Chief Information Officer

5:00 p.m. **Recess**

Thursday, September 28 — Best Western Pine Springs Inn, Ruidoso Downs

9:00 a.m. **Alcohol Licensing**
—Edward J. Lopez, Superintendent, Regulation and Licensing Department (RLD)
—Gary Tomada, Director, Alcohol and Gaming Division, RLD
—Robert Schwartz, Chief Prosecutor, RLD

10:00 a.m. **Administrative Regulatory Reform**
—T.J. Trujillo, Lobbyist, Regulatory Justice
—Sayuri Yamada, Association of Commerce and Industry

12:00 noon **New Mexico Horse Racing Industry — Update**
—Thomas E. "Eddie" Fowler, Chair, State Racing Commission
—Pat Bingham, Vice-President, New Mexico Horsemen's Association

1:00 p.m. **Adjourn**

**MINUTES
of the
FOURTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS
COMMITTEE**

**September 27-28, 2006
Ruidoso Downs, New Mexico**

The fourth meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was called to order by Representative Mary Helen Garcia, chair, on Wednesday, September 27, 2006, at 10:07 a.m. at the Best Western Pine Springs Inn in Ruidoso Downs.

Present

Rep. Mary Helen Garcia, chair
Rep. Jose A. Campos (9/27)
Rep. Daniel R. Foley
Sen. Mary Jane M. Garcia (9/28)
Sen. Clinton D. Harden, Jr.
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Rep. Kathy A. McCoy
Rep. Andy Nunez
Sen. John Pinto
Sen. Leonard Tsosie

Advisory Members

Rep. Ernest H. Chavez
Sen. Dianna J. Duran (9/27)
Rep. John A. Heaton (9/28)
Sen. John C. Ryan

Absent

Sen. Bernadette M. Sanchez, vice chair
Rep. Hector H. Balderas
Rep. Dianne Miller Hamilton
Sen. Carroll H. Leavell
Sen. William E. Sharer

Sen. Phil A. Griego
Rep. Ted Hobbs
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Sen. Steven P. Neville
Rep. Al Park
Sen. Lidio G. Rainaldi
Sen. Shannon Robinson
Rep. Debbie A. Rodella
Rep. Harriet I. Ruiz
Rep. Richard D. Vigil

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Gordon Meeks
Larry Matlock
Kate Ferlic

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Wednesday, September 27**Welcome**

Jim Stoddard, mayor pro tem of Ruidoso, and Sue Garrett, mayor pro tem of Ruidoso Downs, welcomed the legislators to the area. Brad Treptow, executive director, Ruidoso Valley Chamber of Commerce, announced that the racetrack is celebrating its sixtieth season and promoted the area's other recreational activities. Tourism and real estate are the primary sources of economic development. Dr. Michael Elrod, provost of Eastern New Mexico University-Ruidoso Branch Community College, announced the current bond issue on the ballot for the state education project and asked for legislative support on capital outlay requests for economic development in Ruidoso and Ruidoso Downs.

Hidalgo County Economic Development Plan

Jaime Campos of the Mexican Border Authority introduced new border crossing projects, namely expanding operating hours and making infrastructure improvements at the Antelope Wells-El Berrendo checkpoint. Currently, the hours are 8:00 a.m. to 4:00 p.m. Infrastructure improvements include paving roads on the Mexican and United States sides. Paved roads would create more traffic flow and help to extend hours of the checkpoint until 8:00 p.m. Vicente Vargas, specialist for the New Mexico Department of Agriculture (NMDA), announced that the department is now charged (by subcontract) with evaluating the economic development opportunities in rural southern New Mexico because agriculture is the primary economy in this area. The department identified three focal points for Hidalgo County: capitalize on the international border crossing; attempt to attract some dairies and biomass facilities; and establish support for organic farming. The major issue in Hidalgo County is a housing shortage for the labor market, characterized as low-income families interested in renting. The department will request help from the United States Department of Agriculture (USDA).

Jerry Pacheco, contractor for the NMDA, emphasized the need to work with the northwest region of Chihuahua in order to develop the port of entry at Antelope Wells. Although the port is a federal issue, he recommends that New Mexico advertise in Mexico and pay special attention to the roads leading to and from the port of entry. The 45 miles of State Road 81 north of Antelope Wells are unsafe and do not have cattle fences in all places. The state Department of Transportation is making a capital outlay request to fence it. One legislator

emphasized that roads must be a priority to promote growth. If roads are not safe and easily traveled, it is a disadvantage. Further, the Antelope Wells port of entry is on the agenda for the New Mexico-Chihuahua Commission. The commission is looking to define strategies, including a joint resolution from Governors Richardson and Baeza.

On a motion by Senator Harden and seconded by Representative Lundstrom, the committee unanimously voted to write a letter to the State Transportation Commission that roads leading to Antelope Wells be considered for federal earmarking in the next fiscal year. Copies should be sent to Congressman Pearce and the rest of the congressional delegation.

Mr. Pacheco and Mr. Campos described an example of economic development in Dona Ana County as a model for the type of business Hidalgo County could attract. A year-old printing company in Santa Teresa is significantly contributing to economic development in the area providing high-paying jobs with full coverage health care. The company is the largest printer for the Disney Corporation with plants in Juarez and Montebello, California. The Santa Teresa facility is 75,000 square feet with plans to expand.

A committee member expressed concern that the legislature forfeits too much credit to the executive for local project appropriations, making the point that the legislature is the appropriating body. There were other concerns about whether the federal government plans for the fence will impede economic ventures between Mexico and the United States. Legislators discussed whether the fence would stop illegal immigration, or rather hurt United States-Mexico relations and local businesses. Mexico is the thirteenth largest economy in the world. Lastly, the legislators learned of another potential economic development project: luring Sigma Alimentos (owner of Oscar Meyer) to open a cheese factory in rural New Mexico.

Minutes

On a motion by Representative Campos, seconded by Representative Foley, the committee unanimously voted to approve the minutes from the Tucumcari and Santa Rosa meeting on August 24-25, 2006.

Wireless Networking Technology

Dr. Alfred Barr, general manager of VCS Interactive, LLC, made a proposal to create a public-private partnership to provide a wireless network throughout New Mexico to enhance cell phone connectivity, radio free spectrum, optics (lasers) and wireless connection. Dr. Barr said this service will aid emergency response, security for buildings such as fingerprint recognition, maintain health records (MESTRACK) and help get distance learning to rural areas. The program interfaces with already established services, including WiFi, cable and DSL. This service could also include tribal lands. In terms of funding, the company applies for federal money through the state and is asking for no state money to be appropriated or used. VCS will ask for private investors, and when the network is completed, it will make an application to the Department of Homeland Security and USDA and then buy out investors. In talks with the Federal Communications Commission (FCC), Dr. Barr thought the contracts clause of the constitution would create the most problems. Dr. Barr asked the committee to review the details of the arrangements and be supportive of the next step in a commercial venture.

The system works with line-of-sight technology. Without line of sight in mountainous areas, the system uses reflections. For towers, heights range from 18 to 150 feet tall. New Mexico has already spent \$150 million wiring the state. The company says it includes already established utilities. For instance, Public Service Company of New Mexico (PNM) can utilize technology to read meters remotely. The company does not need agreements with single entities providing cell service. Dr. Barr said that the spectrum utilized by the technology is not licensed and regulated by the FCC, so no state regulatory agency would have jurisdiction. Public Regulation Commission (PRC) Commissioner E. Shirley Baca agreed that the state would not regulate. She emphasized the PRC aims to get service providers to work together rather than duplicate services.

Dr. Barr said the technology is enhancing already existing businesses and adding infrastructure. The company would add 200 to 500 jobs to the state, and Dr. Barr predicted that a now closed Southwest Communications Facility (in Grants) will reopen. Further, he said, dedicated T-1 lines will cost a consumer \$99.00. Dr. Barr said the company has completed a project in Seattle, Tampa and Raleigh. Dr. Barr said he has contacted the governor's staff, the PRC, universities in New Mexico and private companies, including Qwest, PNM and Sacred Wind.

Harold Skow of the Division of Information Technology for the Navajo Nation and Todd Romero of the Crownpoint Institute of Technology (CIT) presented the Internet-to-the-Hogan Program. The program aims to provide broadband connectivity to remote areas in Indian country in northwest New Mexico in order to promote economic growth and development. The program proposes to achieve 200 mbps wireless connectivity from Albuquerque to Crownpoint via Harris Radios, provide 150 mbps to Navajo chapter houses from CIT via Motorola backhaul and 15 mbps to a house or hogan. Currently, the project is taking an inventory of community infrastructure, namely the location of CIT towers. Mr. Romero reported that cell phone reception is almost nonexistent on the reservation. CIT is working on technology that would take advantage of the hogan program, such as Navajo language real-time translation, a local Navajo television station and emergency response.

Qwest Rural Extension Fund — Status Update

PRC Commissioner Baca announced that the commission issued its Order on Reconsideration (Case No. 05-00181-UT) for the termination of Qwest's Rural Extension Fund (REF). The commission and Qwest stipulated that Qwest's \$2 million per year obligation to fund the REF should be terminated with the current balance held by Qwest as a New Mexico-specific dedicated liability. The commission, however, did not decide whether the REF subsidy should be increased, whether the unspent balance should be refunded to customers and whether there should be a rate reduction in conjunction with the termination of Qwest's obligation to fund the REF. The REF was created in 1986 with \$2 million in annual contributions. Theoretically, it accrued \$40 million, but maintains a current balance of \$15 million with the remaining \$25 million spent by Qwest. Leo Baca of Qwest said the balance can still be used for special projects in rural areas. Qwest will be approaching the commission to discuss B. Anaya Road near Stanley. The original purpose of the fund was line expansion to rural customers. Every company has a line extension policy, but Qwest was the only company with a fund to support the

policy. Mr. Baca could not answer how many homes were provided with service by the REF, but promised to get those numbers to the committee.

Economic Partnership Program — Status Update

Ray Mondragon, manager of Area Economic Development Partnership, ENMR Plateau, and Tom Phelps, CEO of ENMR Plateau, presented current strategies for increasing the number of jobs in rural communities. As a private company, ENMR Plateau received a grant called "Nuestros Vecinos" to assist in job creation for rural communities. Projects assisted include the Community Development Corporation in Fort Sumner (25 jobs), Logan Medical Clinic (five jobs) and the detention facility in Clayton (225 jobs). The grant also will allow ENMR Plateau to provide a bank in Vaughn, since Wells Fargo has shut down its bank there.

Clark Krause, CEO of the New Mexico Economic Development Partnership (NMEDP), is an out-of-state recruiter for companies to bring jobs to New Mexico. The NMEDP performs site visits and recruits companies that fit with New Mexico communities. Gallup, Tucumcari and Grants will receive site visits this year. The goal is to bring 3,000 jobs, 40 percent in rural New Mexico. These 3,000 jobs will be "economic-based", excluding retail and insurance in a community. Economic-based jobs, according to assessment by NMEDP, are defined as jobs that export a service or a good in which 50 percent of the product leaves the state. Last year, NMEDP created 2,460 jobs, surpassing the 1,000-job goal. Leah Harrison, marketing specialist for NMEDP, described the marketing programs, which includes sending a monthly newspaper and organizing community participation in trade shows internationally. Virgin Galactic brings tremendous traffic to the New Mexico booth at these trade shows. She also serves as a liaison to legislators.

KLG, a Manhattan-based company, performed an opportunity analysis on New Mexico, which found that attracting businesses requires training a quality workforce, and keeping existing talent in the state and attracting new talent are crucial. Legislators discussed issues around college credit transfers. College credits do not transfer easily between New Mexico schools, and allowing such transfers could create a more well-educated workforce.

Minutes

On a motion by Representative Lundstrom, seconded by Representative Garcia, the committee unanimously voted to approve the minutes from the July meeting with the deletion of the motion to write a letter to the Pittsburgh and Midway Coal Mining Company.

Economic Development Department — Update

Rick Homans, secretary of economic development, handed out the annual report for fiscal year 2006. In sum, New Mexico saw the strongest job growth in 11 years, and the unemployment rate is 4.4 percent in contrast to 5.9 percent in 2003. New Mexico ranks twelfth in the nation in personal income growth. Secretary Homans explained that the certified community program that began three years ago is successful. Thirty communities have achieved certification, which allows communities to engage in investments and apply for main street and co-op advertising funds. Applications are graded and ranked based on a clear criteria provided by the agency. A letter was distributed from Ed Carr, the Otero County Economic Development

Council's director, lauding the success of the marketing program called Co-Op Advertising. The letter requests the state to increase the allocation for the Co-Op Advertising Program by increasing current marketing efforts. In response to questions from legislators on the spaceport, Secretary Homans said that the access to the spaceport will come through Truth or Consequences. For the proposed funding of the spaceport through a county gross receipts tax, there will be a special election in 2007. If each of the seven proposed counties participate, the tax would be one-sixteenth percent. However, fewer communities could achieve this goal. For example, if Dona Ana County imposes a one-fourth percent tax for 20 years, it would equal the \$45 million needed. This tax is a critical part of the funding for the spaceport. There is currently a \$115 million unused appropriation for the spaceport.

WIRE New Mexico — Industry Comments and Response

Sam Ray and Charles Ferrel of the New Mexico Exchange Carrier Group (NMECG) are concerned about the state acting as a telecommunications provider rather than an aide for rural communities to gain broadband access. If the state competes directly through the WIRE New Mexico Program, NMECG revenue losses could result in upward pressure to increase local rates to rural customers. NMECG requested a place on the agenda for the next meeting in order to propose legislation. NMECG is a conglomeration of small companies that provide service to more than 66 percent of the state's geography in rural areas. NMECG has recently committed to the transition from copper to fiber optics, thereby boosting capacity for high-speed internet. A legislator expressed concern that money is being wasted because of too many separate systems. Art Jaramillo, secretary of general services, informed the committee about the work of the governor's task force to look at these issues and explore public-private partnerships. The state's goal is to avoid duplication of infrastructure in a prudent and cost-effective manner. WIRE New Mexico is not self sufficient, although it is estimated it will be. WIRE New Mexico has received millions of dollars in appropriations. Roy Soto, CIO for WIRE New Mexico, explained that the issue of whether WIRE New Mexico can contract out excess lines is still undecided. A legislator expressed concern that these lines still are not reaching a significant population of the Navajo Nation.

The meeting was recessed by Representative Garcia at 6:40 p.m.

Thursday, September 28

The fourth meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was reconvened by Representative Garcia on Thursday, September 28, at 9:04 a.m. at the Best Western Pine Springs Inn in Ruidoso Downs.

Alcohol Licensing

Gary Tomada, director of the Alcohol and Gaming Division of the Regulation and Licensing Department (RLD), gave a brief synopsis of the alcohol licensing history and system in New Mexico. In theory, the state issues one liquor license per every 2,000 inhabitants, which should equal 900. However, 1,410 licenses currently exist. More than 1,300 licenses were grandfathered in. and the state has not issued new licenses since 1981. As the law stands now, if a business wants to serve beer, wine and liquor, the business must buy an existing license.

(Note: beer- and wine-only licenses are unlimited.) Section 60-6B-12(A) NMSA 1978 of the Liquor Control Act provides that licenses originally issued before July 1, 1981 may be transferred to any location within the state except class B counties and any county that prohibits by election the transfer of a license from another local option district. Currently, the state is not permitted to issue any new dispenser licenses until the population grows to 2.8 million.

Edward Lopez, superintendent of regulation and licensing, presented conclusions from a study analyzed by the DWI Resource Center. The study, based on eight years of citations for DWI, shows a strong correlation between the density of liquor licenses and incidences of DWI. Based on the results, Mr. Lopez emphasized the need to pay attention to the supply side. One suggestion for reducing the number of liquor licenses and, thus, addressing the supply side, is to establish a buy-back program to retire the licenses. He concluded that restaurants serving alcoholic beverages to complement food are not the problem. Rather, the strongest correlation exists where there are bars with the primary function of serving alcohol. On the flip side, the scarcity of liquor licenses often stifles new businesses moving in, particularly hotels and chain restaurants. Also, some communities want more licenses issued. For instance, the mayor of Sunland Park — an area of growth — has requested more licenses and reports the community is four under quota. The mayor proposed the issuance of new dispenser licenses by lottery. Legislators discussed whether restaurants and hotels should have an easier time acquiring licenses because those establishments are not the problem.

Administrative Regulatory Reform

Sayuri Yamada of the Association of Commerce and Industry (ACI) and T.J. Trujillo, attorney with expertise in administrative law, presented a solution to regulatory obstacles called regulatory justice. ACI is a statewide business advocacy organization with more than 1,300 members and is one of 10 organizations that supports regulatory justice. Regulatory justice is based on the principle that government should create a regulatory system that is simple, enhances confidence, promotes accountability and ensures consistency in administrative proceedings. Currently, representatives of ACI believe that state government makes it difficult for businesses and the general public to navigate the regulatory maze. ACI has tracked three trends. First, there has been an increase in administrative agencies. Second, there has been an increase in the volume of rules. Third, there has been an increase in the amount of discretion given to regulators. As a result, there is a significant cost on the backside for businesses in attorney fees to decipher what procedures require compliance. In response to legislators' questions regarding action, ACI suggested a bill that creates one consolidated board, commission or new department that addresses regulatory reform measures as opposed to proposing 10 different bills. Many states have seen success with this kind of structure. The ACI hopes that the legislature will give a broad grant of rulemaking authority to propose fees and promulgate rules. The newly created body would make decisions based on a review of economic impact statements. When an agency makes a rule, it would submit an economic impact statement to the board for analysis. One legislator was concerned that much of the proposed legislation in the regulatory justice package would intimidate members of the public from challenging businesses. For instance, the suggestion that the losing party pay attorney fees will deter challenges. Legislators emphasized the need for public, not just industry, input.

New Mexico Horse Racing Industry — Update

Eddie Fowler, chair of the State Racing Commission (SRC), and Pat Bingham, vice president of the New Mexico Horsemen's Association, reported that horse racing "is on the upswing". Attendance has increased, as has the horse population. The state has 1,550 stalls and over 2,800 applications. There are almost 9,000 racehorses in New Mexico. Horse racing contributes tremendously to New Mexico's economy, especially in tax revenue. They estimated that the money coming in is \$5.00 or \$6.00 for every \$1.00 spent. The committee requested information on the number of people employed by the horse racing industry making more than minimum wage that have health care.

A legislator asked about the rumor of a casino and track moving out of Albuquerque. In response, SRC Executive Director Julian Luna said that nothing has officially happened. If there are plans, an application would need to be filed and that application would need to be approved. Another legislator wanted to understand how to get a track in his district. Mr. Luna said that the SRC has a responsibility to ensure tracks are not running all over the state. Some tracks would benefit from more hours, but the horse racing industry has no plans to ask for a bill. The legislators briefly discussed the Pueblo of Jemez proposal for a racetrack casino in the southern part of the state, but reached no conclusion.

Adjournment

There being no further business before the committee, the fourth meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was adjourned at 12:30 p.m.

Revised: October 18, 2006

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

October 25-26, 2006
Las Cruces, New Mexico
Deming, New Mexico

Wednesday, October 25 — NMSU Golf Course Club House, Las Cruces

10:00 a.m. **Call to Order**

10:05 a.m. **Welcome**
—Bill Mattiace, Mayor, City of Las Cruces

10:15 a.m. **Role of Colleges and Universities in Economic Development**
—Dr. Beverlee McClure, Secretary of Higher Education

11:00 a.m. **Technology Research Consortium**
—Garrey Carruthers, Chair

12:00 noon **Lunch**

1:00 p.m. **Rural Banks Task Force — Update**
—Kelly O'Donnell, Deputy Secretary of Economic Development

2:00 p.m. **Rodeo Commission — Update**
—Debbie K. Romero, Capital Projects Division, Department of Finance and Administration

3:00 p.m. **Economics of Mining in Rural New Mexico**
—Mike Bowen, Executive Director, New Mexico Mining Association

4:00 p.m. **Recess**

Thursday, October 26 — Mimbres Valley Learning Center, Deming

- 9:00 a.m. **Welcome**
—Andres Z. Silva, Mayor, City of Deming (Invited)
—Eddie Espinoza, Mayor, City of Columbus (Invited)
- 9:15 a.m. **Chile Production Research — Agriculture**
—Gene Baca, President, New Mexico Chile Association
—Charlie Marquez, Broad Spectrum Governmental Affairs
- 10:00 a.m. **Surface Owner's Protection Act**
—Robert Gallagher, President, New Mexico Oil and Gas Association
- 11:00 a.m. **Access to Healthy Foods**
—Pam Roy, Coordinator, New Mexico Food and Agriculture Policy Council
—Craig Mapel, Marketing Specialist, New Mexico Department of Agriculture
- 12:00 noon **Adjourn**

**MINUTES
of the
FIFTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**October 25-26, 2006
Las Cruces, New Mexico
Deming, New Mexico**

The fifth meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was called to order by Representative Mary Helen Garcia, chair, on Thursday, October 25, 2006, at 10:05 a.m. at the New Mexico State University (NMSU) Golf Course Clubhouse in Las Cruces.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Jose A. Campos
Sen. Mary Jane M. Garcia (10/25)
Rep. Dianne Miller Hamilton
Sen. Richard C. Martinez
Rep. Andy Nunez
Sen. William E. Sharer

Advisory Members

Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. John A. Heaton
Rep. Debbie A. Rodella (10/26)
Sen. John C. Ryan (10/26)

Absent

Rep. Hector H. Balderas
Rep. Daniel R. Foley
Sen. Clinton D. Harden, Jr.
Sen. Carroll H. Leavell
Rep. Patricia A. Lundstrom
Rep. Kathy A. McCoy
Sen. John Pinto
Sen. Leonard Tsosie

Sen. Phil A. Griego
Rep. Ted Hobbs
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Sen. Steven P. Neville
Rep. Al Park
Sen. Lidio G. Rainaldi
Sen. Shannon Robinson
Rep. Harriet I. Ruiz
Rep. Richard D. Vigil

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Gordon Meeks
Kate Ferlic
Larry Matlock

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Thursday, October 25**Welcome**

Dr. Mike V. Martin, president of NMSU, welcomed the committee to the university's Golf Course Clubhouse, noting that the facility had been built entirely without state funds. The university is a land grant institution and is a supplier of leaders in rural areas. The school produces new and improved technologies and is involved in rural economic development. The chile thinner was invented at NMSU and is manufactured in Los Lunas.

Las Cruces Mayor Bill Mattiace also welcomed the committee to Las Cruces. The city is enjoying a growth spurt and has the lowest unemployment rate in 10 years. The city works collaboratively with NMSU. The city has put a strategic plan in place emphasizing public safety and infrastructure. He believes there is increased communication between different levels of government, which is very important. The city will work hard to maintain its high rankings in areas such as "best city to retire in". Among the projects currently underway in Las Cruces are an \$80 million federal building, a \$25 million city hall and a \$20 million to 25 million state-of-the-art aquatic center.

Role of Colleges and Universities in Economic Development

Dr. Beverlee J. McClure, secretary of higher education, addressed the committee on the role of higher education in economic development. She first indicated how New Mexico measures up in terms of higher education, giving the committee the state's higher education "report card". The state gets an "F" in preparation of its students for higher education; only Louisiana ranks worse. The state spends \$20 million a year on remedial education for high school graduates. The state receives an "A" in participation, as it does a great job at getting students into higher education institutions. There is a problem, however, in that a large percentage of students do not return for their second year. A good percentage of the 25- to 49-year-old population is in higher education. Technically, the state gets an "F" in affordability (as measured by the percent of family income needed to support a student), but the figures reflect numbers before the passage of the College Affordability Act and the overall low-income levels of New Mexico families. The state gets a "D" for completion rates; only 38 percent of entering students complete a four-year degree within six years.

Secretary McClure reviewed the department's 2006 strategic priorities and related goals as follows: 1) increase student access and success; 2) innovate to meet current and future educational needs efficiently and effectively; 3) provide programs and services integral to state and regional economic needs; and 4) position New Mexico higher education to be ranked in the upper echelon by improving national rankings. She reviewed the department's organizational chart, noting that there is currently a gap in workforce development. The personnel in the

department has not increased since before the department was created, although there will be an increase with the forthcoming federal gear-up grant. The department is focusing on developing career clusters, including arts and sciences, business services, communications and services (teachers), energy and environmental technologies, engineering construction and manufacturing, health and biosciences, and hospitality and tourism. She noted that 30 percent of the state's students enrolled in higher education are from rural areas and there is a need for multiple campuses across the state for ready access. Secretary McClure reviewed figures illustrating the impact of education on earning capacity and poverty levels and future areas of job growth. Finally, Secretary McClure indicated that she would be seeking changes in the funding formula for institutions of higher education so that those serving rural areas would not be adversely affected by temporary drops in enrollment.

Questioning by committee members focused on what needs to be done to better prepare the state's high school graduates for success in college, including dual enrollment programs, the gear-up program and the expenditure of increased funding by the legislature.

Technology Research Collaborative

Dr. Garrey Carruthers, dean of the College of Business and vice president for economic development at NMSU, and Kathy Hanson, chief operating officer of the Arrowhead Center, Inc., at NMSU, presented to the committee regarding the Technology Research Collaborative (TRC). The TRC was established by the legislature in 2005 and has received \$3.1 million in funding. Members of the TRC are the Air Force Research Laboratory, Army Research Laboratory, Los Alamos National Laboratory, MIND Institute, National Center for Genome Research, NMSU, New Mexico Institute of Mining and Technology, Sandia National Laboratories, University of New Mexico and White Sands Missile Range. The goal of the TRC is the development and commercialization of intellectual property and technologies that are created in the state's universities, national laboratories and private industry. The idea is to take ideas that have proven potential and move them into economic engines. Proposals are solicited and funded based upon a scoring system that includes value to New Mexico (strategic value, commercial feasibility and economic potential), collaboration with at least two TRC entities, technical feasibility, management and matching funds with at least a one-to-one ratio.

In fiscal year 2006, the TRC awarded almost \$1 million to four projects that brought in \$1.6 in additional outside funding. Dr. Carruthers reviewed the nature of the projects dealing with radio pharmaceutical isotopes, hydrogen generation/power systems, adaptive optics and supercapacitor applications. The TRC is currently soliciting proposals for its second round of funding, concentrating on nanotechnology, optics, medical applications, digital media, sustainable natural resources, alternative energies, homeland security and aerospace. Other states are competing for the same sort of technological development. The TRC will be asking the legislature for \$12 million in additional funding during the upcoming session.

Rural Banks Task Force

Dr. Kelly O'Donnell, deputy secretary for economic development, presented to the committee regarding the findings of the Rural Banks Task Force convened earlier this year by Governor Richardson and chaired by Secretary of Economic Development Rick Homans. The

task force was convened after Wells Fargo announced that it was closing banks in several rural communities, including Wagon Mound, Vaughn, Mountainair and Roy. The closure of these banks was inconvenient for residents and damaging to the local economy. Local banks play a critical role in the local economy in that they provide security and convenience to local merchants, evidence a community's stability to potential residents and investors and, by lending capital to local businesses, they bring capital and the potential for economic growth into otherwise isolated communities. The task force devised a proposed linked deposit program (LDP) whereby a certain portion of the state's money invested in certificates of deposit would be invested in qualified rural banks. The limit for such investments would be raised from \$300 million to \$350 million and \$49 million could go into the LDP. These funds would be permitted to earn a rate of return one percentage point below the market rate, thereby earning participating banks an increased return on these deposits. There would be a \$10 million limit of these investments in any one bank. Qualifying banks would have to serve the credit needs of the community, be open five days a week and have a night drop box. Such banks would need to be in a financially at-risk community that would be rural, have no more than one bank, have a population of less than one million and have either a declining population or a median household income less than 80 percent of the state median. Deputy Secretary O'Donnell presented a list of New Mexico's financially at-risk communities under the proposed criteria.

Questions from committee members dealt with issues of the importance of proximity of communities to banks, whether the one percent increase in profits from state certificates of deposit would have kept banks from closing, community income levels and size, and the impact of growth in small communities in qualifying for the LDP.

Economics of Mining in Rural New Mexico

Mike Bowen, executive director of the New Mexico Mining Association, briefed the committee on the economic importance of mining in New Mexico. Large numbers of minerals are used in everyday life, including in agriculture, construction, transportation, communications, homes and offices, national defense, environmental protection and energy. The United States consumes about one-fourth of the world mineral production. Mr. Bowen presented facts on the amount of minerals used by individuals or for home building. Minerals mined in New Mexico include aggregates, coal, copper, gold, gypsum, molybdenum, potash, perlite, salt, silver and uranium. Mining in New Mexico provides approximately 6,000 quality jobs with a payroll of \$250 million. The average yearly mining individual payroll is \$53,000 compared to a statewide average of \$29,000. The impact of mining on New Mexico's economy includes \$982 million in direct economic gain, \$302 million in direct personal income gain, \$451 million in direct business income in-state, \$19 million in direct business income from other states, \$208 million in state and local government revenue and \$115 million in federal government revenue. The total impact of mining on New Mexico's economy is estimated at \$4.415 billion. Mr. Bowen then shared with the committee the economic impact of several specific mining operations.

New Mexico Rodeo Council

Debbie Romero, with the Department of Finance and Administration, is the administrative staff for the New Mexico Rodeo Council (Council). The Council was formed as a part of the governor's rodeo initiative, the purposes of which are to study how the state can

support rodeo at the junior, high school, college and professional levels, promote and attract competitive rodeo events, and provide information to rodeo participants, fans and promoters. Ms. Romero reviewed who is on the council and noted that they are all volunteers who receive no mileage or per diem payments. Legislative appropriations in 2005 included \$1.5 million for facilities and programs, \$553,000 for Expo New Mexico for equipment and facility improvements related to the rodeo initiative, \$10 million for a new equestrian facility and \$8 million for local facilities, the Professional Rodeo Cowboys Association (PRCA) and program costs. Ms. Romero presented information regarding the status of expenditures of the rodeo initiative, including \$400,000 for facility improvements. The accomplishments of the rodeo initiative include: rodeo being recognized as an activity by the New Mexico Activities Association for public school students; development of a web site; the move to New Mexico of Turquoise Circuit Finals from Arizona; the emergence of New Mexico as a leader in advancing the sport of rodeo and developing up-and-coming talents; infrastructure support to local communities in order to develop and sustain rodeo events on their own; helping to support and grow a diversified number of events and contestants; and planning a new equestrian facility for the state.

The meeting was recessed by Representative Garcia at 2:30 p.m.

Friday, October 26

The meeting was reconvened by Representative Garcia on Friday, October 26, 2006, at 9:20 a.m. at the Mimbres Valley Learning Center in Deming.

Welcome

Deming Mayor Andres Silva summarized some of the highlights of Deming's economic development. He said that Border Foods will be shutting down the Las Cruces operation and transferring it to Deming. It is also moving its Dallas operation to Deming. He said that Proper Foods is another processing plant moving to Deming that will involve 50 to 75 employees. He said the driving force is Deming's proximity to the border, which explains also the strong presence of approximately 200 National Guard members there doing border patrol duty. He told the committee that the guard is in the process of completing a minibase in the Deming Industrial Park. Eventually, a total force of 400 troops will be billeted in Deming. He explained that obstacles to economic development include limited infrastructure and housing shortages. Deming has new subdivisions on the books, local builders are busy and builders are also coming from Las Cruces. It takes a month to a year to get a building permit in Las Cruces, but Deming issues them immediately, which gives Deming an advantage and fosters growth. Deming also has residents who commute to Lordsburg, Las Cruces and Arizona.

Questions and comments from the committee addressed:

- Border Foods history of moving to Deming and then to Dallas and then back again;
- the tax break provided for those companies by the legislature that then move to Texas;

- the potential effect of an increased minimum wage on Border Foods;
- the new coal-fired electric power plant;
- the potential for a solar electric power plant and the need for transmission lines;
- trouble with the solar plant;
- challenges to schools and water resources;
- transmission power lines; and
- the effect of the United States Border Patrol and National Guard on border crossings.

Chile Research and Market Development Assistance from NMSU

Charlie Marquez, lobbyist, Gene Baca, president of the New Mexico Chile Association, and Dino Cervantes, chile grower, were introduced. Mr. Marquez said he is the de facto lobbyist for food processors in the area and said that the minimum wage directly affects these processors. The panel then went on to explain how important the chile industry is to New Mexico, how significantly it has been affected by the growing importation of chile from other countries and how the industry is asking for a \$7 million appropriation for research and market development assistance from NMSU.

The panel said that it is working with staff at NMSU to get federal funding in the range of \$8 million to \$9 million. A total of \$15 million would be used for research. The panel said that New Mexico's chile industry cannot compete without assistance, and explained that the chile industry employs 5,000 full-time employees and 10,000 part-time employees. It adds \$400 million to the state's economy. These chile farms are mostly family farms. There are 12,000 acres under chile cultivation in southern New Mexico. The panel gave some details regarding the specific product breakdowns of chile crops among dry red, oleo resin, processed green, fresh green and cayenne mash. The panel explained that threats to New Mexico's chile producers come mostly from China, Peru and Mexico due to the reduced cost of labor in those countries. The labor cost in New Mexico is \$70.00 per day, which compares to \$2.00 per day in China per employee. Free trade has significantly damaged the industry in New Mexico. New Mexico's acreage in chile production is half what it was in 1992. During the same time period, imported chile has tripled. One grower lost \$1 million one year. Other problems include the lack of automation and false advertising, with New Mexico's competitors claiming their products are produced in New Mexico. The panel said that research into automating chile production and genetic improvements in the chile seed will help level the playing field and enable New Mexico growers to better compete with foreign growers. The panel requested the committee endorse an appropriation of \$7 million to NMSU.

Questions and comments addressed:

- how the minimum wage of \$6.75 will drive the chile industry out of New Mexico;
- language in minimum wage laws;
- work ethics;
- the need for more productivity;
- the governor's position and the labor unions' position;
- progress in development of an automated chile picker;
- water use efficiency improvements;
- tax credits;
- conservation planning;

- Sandia National Laboratories research on a destemming machine;
- the trademark issue with Chimayo chile;
- labor supply and consequences of the border fence and illegal documents;
- global trade and harvest cost; and
- the maturation period of chile.

Surface Owner's Protection Act

Bob Gallagher, executive director of the New Mexico Oil and Gas Association, explained to the committee that during the last session, there was an agreement over legislation to protect surface owners. He said that the oil and gas, ranching and agriculture industries are extremely vital to this state. He described the history of the industries' efforts to reach a compromise to ensure that exploration and production would continue while other user rights were protected. He said there was an agreement with the New Mexico Cattle Growers Association, the Environmental Law Center and the Oil and Gas Accountability Project. The agreement lasted through two House committee unanimous votes and a 59-1 passage on the floor of the House. He said the main sponsor of the committee substitute encouraged colleagues to vote for the bill. He explained that the compromise lasted through one Senate committee hearing, resulting in a unanimous vote in that committee. Then, Mr. Gallagher said the Cattle Growers Association, the Oil and Gas Accountability Project and the Environmental Law Center decided at the eleventh hour that they no longer wanted this piece of legislation to pass and got the Senate Judiciary Committee chair to kill the bill. He asked the committee to endorse the negotiated bill as it was passed by the House of Representatives last year. This legislation requires five days' notice to the land owner before nonsurface-disturbing activity and 30 days for surface-disturbing activity. During those 30 days, the industry must develop a large amount of information concerning the proposed operations and deliver that as well as an offer of compensation to the land owner. A financial surety or bond must be posted with the court if the operator and landowner cannot reach an agreement and before the driller can move onto the land. This ensures that damages to the land caused as a direct result of exploration activities will be paid. He explained that the law gives priority to the subsurface rights owner and the industry will not agree to any language that suggests payment for use of the land in addition to damages. The issue of the mineral estate being the dominant estate is a federal issue, not a state issue. Actual damages as a direct result of exploration actions are more than reasonable, but "diminished value" or "loss of earnings" are not. The industry should not have to agree to that or for any damages for "unforeseen future development".

Questions and comments included:

- a matrix showing the difference between the two bills being proposed;
- independent petroleum industry opposition; and
- Bebo Lee, representing New Mexico cattle growers, describing the incident on Otero Mesa that precipitated the breakdown in the agreement.

Access to Healthy Foods

Pam Roy, coordinator for the New Mexico Food and Agriculture Council, and Craig Mapel, New Mexico Department of Agriculture, presented the committee with seven requests for legislative endorsement:

- \$1,440,000 for a healthy kids/healthy economy program to provide fresh fruit and vegetables to 200,000 students statewide;
- \$250,000 to provide 5,000 low-income senior citizens with food coupons for fresh, locally grown fruits and vegetables at farmers' markets;
- \$250,000 to develop programs and promote farmers' markets;
- \$600,000 to deliver 30 million pounds of fresh produce to 240,000 New Mexicans;
- \$500,000 to purchase New Mexico-produced foods for kids' backpacks in 60 schools to benefit 3,500 children;
- \$180,000 for a senior citizens supplemental food stamp program;
- \$4,200,000 for a universal school breakfast program; and
- a memorial to focus on access to healthy affordable food in rural and underserved areas of the state.

Questions and discussion addressed:

- the rationale for the cost estimates;
- why these appropriation requests are not in base budgets;
- the lack of a state school lunch program;
- obstacles to healthy choices in school;
- the average cost of school lunches for students;
- the role of the Human Services Department;
- the quality of the United States Department of Agriculture program and its history; and
- unhealthy aspects of the federal surplus "food nutrition" program.

The chair instructed members to bring their requests for bills to be endorsed by the committee to her prior to the next committee meeting.

The committee adjourned at 11:58 a.m.

**TENTATIVE AGENDA
for the
SIXTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**November 13, 2006
Rio Rancho, New Mexico
November 14-15, 2006
Room 317, State Capitol**

Monday, November 13 - Santa Ana Star Center, Rio Rancho

9:00 a.m. **Call to Order**

9:05 a.m. **Welcome**

—Kevin Jackson, Mayor, City of Rio Rancho
—Jim Palanick, City Manager, City of Rio Rancho

9:30 a.m. **Payday Lending Legislation**

—Senator Bernadette M. Sanchez
—Representative Patricia A. Lundstrom

10:30 a.m. **Small Business Innovation Research (SBIR) Outreach**

—Barbara Stoller, Director, SBIR Outreach Center, Technology Ventures Corporation

11:15 a.m. **New Mexico Manufacturing Extension Partnership**

—Carol Ann Sanchez

12:00 noon **Lunch**

1:00 p.m. **WESST Corp Enterprise Center**

—Belinda Jentzen, Director of Development, WESST Corp
—Agnes Noonan, Executive Director, WESST Corp
—Carol Radosevich, Economic Development Director, PNM

2:00 p.m. **Eminent Domain**

—J.D. Bullington, Co-Chair, Governor's Task Force on the Responsible Use of Eminent Domain by State and Local Governments
—John Salazar, Esq., Co-Chair, Governor's Task Force on the Responsible Use of Eminent Domain by State and Local Governments

3:00 p.m. **Tour of "Wild Fire" Television Set**

Tuesday, November 14 - State Capitol, Room 317

9:00 a.m. Empowering Business Spirit Initiative

- Ashley Sanderson, Regional Development Corporation
- Ron Martinez, Director, ENLACE/GEAR UP

10:00 a.m. Telecommunications Issues and Internet Training

- John Badal, Chief Executive Officer, Sacred Wind Communications, Inc.

11:00 a.m. Los Alamos/Sandia Small Business Program

- Vic Chavez, Manager, Office of Advocacy and Small Business Development, Sandia National Laboratories
- Mariann Johnston, Community Programs Office, Los Alamos National Laboratory

12:00 noon Lunch

1:00 p.m. New Mexico Business Incubator Advisory Committee — Update

- Marie Longserre, President/CEO, Santa Fe Business Incubator

1:30 p.m. Regulation of Generation and Transmission Cooperatives

- Luis Reyes, General Manager, Kit Carson Electric Cooperative
- Robert "Mac" McLennan, Senior Vice President, External Affairs and Member Relations, Tri-State Generations and Transmission Association, Inc.

2:30 p.m. Effectiveness of Tax Incentive Policies

- Kelly O'Donnell, Deputy Secretary of Economic Development

3:30 p.m. Uranium Mining — Status Update

- Jon Indall, Esq., Comeau, Maldegen, Templeman and Indall
- George Byers, Vice President of Communications and Public Affairs, Neutron Energy, Inc.
- Juan Velasquez, Vice President of Environmental and Regulatory Affairs, Strathmore Minerals Corporation
- Star Gonzales, Executive Director, Cibola County Economic Development

4:30 p.m. Recess

Wednesday, November 15 - State Capitol, Room 317

9:00 a.m. Economic Development Department — Legislative Update

- Rick Homans, Secretary of Economic Development
- Kelly O'Donnell, Deputy Secretary of Economic Development

10:00 a.m. Endorsement of Legislation

12:00 noon Adjourn

**MINUTES
of the
SIXTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE**

**November 13-15, 2006
Rio Rancho, New Mexico
Santa Fe, New Mexico**

The sixth meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was called to order by Representative Mary Helen Garcia, chair, on Monday, November 13, 2006, at 10:04 a.m. at the Santa Ana Star Center in Rio Rancho.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair (11/13, 11/14)
Rep. Hector H. Balderas (11/13, 11/14)
Rep. Jose A. Campos
Rep. Daniel R. Foley (11/13, 11/15)
Sen. Mary Jane M. Garcia
Rep. Dianne Miller Hamilton
Sen. Clinton D. Harden, Jr.
Sen. Carroll H. Leavell (11/14, 11/15)
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Rep. Kathy A. McCoy (11/13, 11/14)
Rep. Andy Nunez
Sen. William E. Sharer (11/14, 11/15)
Sen. Leonard Tsosie (11/14, 11/15)

Absent

Sen. John Pinto

Advisory Members

Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. John A. Heaton (11/14, 11/15)
Rep. Ted Hobbs
Sen. Steven P. Neville (11/15)
Rep. Al Park (11/13, 11/14)
Sen. Lidio G. Rainaldi (11/15)
Rep. Debbie A. Rodella (11/13)
Sen. John C. Ryan
Rep. Richard D. Vigil (11/14)

Sen. Phil A. Griego
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Sen. Shannon Robinson
Rep. Harriet I. Ruiz

Visitors

Speaker Ben Lujan (11/14)

Rep. Luciano "Lucky" Varela (11/14)

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder

Gordon Meeks

Kate Ferlic

Larry Matlock

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Monday, November 13**Welcome**

Rio Rancho Mayor Kevin Jackson and Rio Rancho City Manager Jim Palanick welcomed the committee to Rio Rancho and the new Santa Ana Star Center. The new center was completed approximately three weeks ago, has already hosted a number of events and is the home of a professional hockey team. The center was completed on time and within budget. The center was not built with state funds but the city appreciates the fact that the legislature permitted the city to raise its gross receipts tax in the past to pay for the center, thus helping Rio Rancho to help itself. Similarly, the increase in state film tax credits helped the city to finalize a deal with Lion's Gate to build a studio in Rio Rancho. The city is looking for the legislature to approve a rise in gross receipts taxes to assist with four-year colleges in Rio Rancho.

Payday Lending Legislation

Senator Sanchez introduced a draft of her proposed payday legislation for the 2007 legislative session. This topic has been considered by the legislature every year for the past few years. The principal problems with the payday loan industry are the high annual percentage rate (APR) charged for interest and unlimited rollovers. The bill proposed by Senator Sanchez follows the federal legislation signed by President Bush on September 30, 2006 regulating consumer loans to members of the military and their dependents. The bill proposed by Senator Sanchez would extend to all New Mexicans the protections given by Congress to members of the military and their dependents. The proposed bill includes the following points: 1) it applies to consumer loans taken out by any New Mexican, not just members of the military and their dependents; 2) it applies to all consumer loans, including car title loans, income tax anticipation loans and payday loans; 3) it caps interest rates to 36 percent APR (including all fees and charges, credit insurance premiums and other ancillary charges); 4) it specifically prohibits a lender from securing a consumer loan with a personal check, debit authorization, wage allotment

or title to a vehicle; 5) it limits allowable late or delinquency fees (\$10.00 or \$.05 per dollar); 6) it prohibits renewals, rollovers or refinancing; 7) it requires certain disclosures, including interest rates and payment obligations, before a loan is made; and 8) it establishes penalties, including no right of collection of principal or interest, utilization of the Fair Practices Act for enforcement and criminal penalties as a gross misdemeanor. Senator Sanchez then compared the scenario should a consumer enter into a payday loan under the bill recently suggested by Representative Lundstrom with the scenario under the approach suggested in Senator Sanchez's bill. Senator Sanchez indicated this is a social justice issue; all New Mexicans should have the same protections given to the military and their dependents by Congress. Senator Sanchez suggested that if the committee could not endorse her proposal because it was still in a draft form, the committee should hold off on endorsing any payday lending legislation.

Following questions from the committee to Senator Sanchez, Representative Lundstrom, assisted by Ed Lopez, superintendent of Regulation and Licensing, and Bill Verant, director of the Financial Institutions Division of the Regulation and Licensing Department, presented a payday lending bill proposed by the administration. The proposed bill is similar to House Judiciary Committee Substitute for House Bill 409 in the 2006 legislative session and reflects many of the provisions of the rules adopted and promulgated by the Regulation and Licensing Department earlier this year. Representative Lundstrom reviewed the salient points of her proposed bill and how it differs from the bill that died on the floor of the senate the last morning of the 2006 legislative session. Superintendent Lopez indicated it is the administration's position that the payday lending industry should be retained as an available resource for New Mexicans. Mr. Verant reviewed the history and growth of the payday lending industry in New Mexico over the past few years. Following questions and comments by members of the committee, upon a motion by Senator Martinez, seconded by Senator Garcia, the voting members of the committee voted 9-1, with Senator Sanchez opposed, to endorse the payday lending legislation proposed by Representative Lundstrom on behalf of the administration for the 2007 legislative session.

Small Business Innovation Research (SBIR) Outreach

Barbara Stoller, director of the SBIR Outreach Program, briefed the committee on the Program's impact on New Mexico's economy. She explained to the committee the SBIR Outreach Program and the Small Business Technology Transfer Program (STTR). The SBIR is a set-aside program for small business concerns to engage in federal research and development with potential for commercialization. The STTR is a set-aside program to facilitate cooperative research and development between small business concerns and federal research institutions with potential for commercialization. In passing the Small Business Innovation Development Act of 1982, Congress designated four major goals: 1) stimulate technological innovation; 2) use small businesses to meet federal research and development needs; 3) foster and encourage participation by minorities and disadvantaged persons in technological innovation; and 4) increase private sector commercialization innovations derived from federal research and development. Forty-five percent of New Mexico's high-tech firms started with SBIR funds. Both SBIR and STTR have a three-phase program. Phase I involves a feasibility study and includes \$100,000 for either six months (SBIR) or 12 months (STTR). Phase II involves full research and development and includes two-year awards for either \$750,000 (SBIR) or \$500,000 (STTR). Phase III is the commercialization and does not involve the use of SBIR funds. Ms.

Stoller reviewed the eligibility checkpoints for the SBIR Outreach Program and the critical differences between the SBIR and STTR programs. She also reviewed the total number of grants under each program for the years 2000 through 2004 (totaling \$112,620,000) and three of the companies that received such grants.

After questions and comments from committee members, upon a motion by Representative Lundstrom, seconded by Senator Ryan, the committee voted without opposition to endorse an appropriation in the amount of \$250,000 to support the SBIR Outreach Program.

Minutes

Upon a motion by Senator Martinez, seconded by Representative Lundstrom, the minutes of the committee's September and October 2006 meetings were unanimously approved.

New Mexico Manufacturing Extension Partnership

Carol Ann Sanchez, president of the New Mexico Manufacturing Extension Partnership (Partnership), and Michael Randolph, director of business development, briefed the committee on the activities of the Partnership. The Partnership is part of a national network serving small to medium-sized manufacturers with on-staff engineers. The Partnership's clients have reported \$69 million in total sales impact, \$34.3 million in cost savings and investments and 1,730 jobs created or retained. In the first three quarters of 2006, the Partnership's clients have reported \$19.2 million in total sales impact, \$4.6 million in cost savings and investments and 248 jobs created or retained. Thus far in 2006, the Partnership has served 115 clients throughout the state. The Partnership's staff has grown from five to 15 employees and it recently opened offices in Las Cruces and Roswell. Ms. Sanchez and Mr. Randolph reviewed a number of projects where the Partnership has assisted its clients. Ms. Sanchez reviewed the history of financial support the Partnership has received over the years, both from the state and the federal government. The Partnership is seeking increased support from the state in fiscal year 2008 in the amount of \$1.3 million, all of which will be used to subsidize client projects and not to pay Partnership overhead costs.

After questions and comments from committee members, upon a motion by Representative Campos, seconded by Senator Sanchez, the committee voted without opposition, but with Representative Nunez abstaining, to endorse an appropriation in the amount of \$1.3 million in matching funds to provide support for projects of the Partnership.

WESST Corp Enterprise Center

Agnes Noonan, executive director of the Women's Economic Self-Sufficiency Team (WESST Corp), stated that WESST Corp is a small business incubator project whose mission is helping people start businesses. A 501(c)(3) nonprofit economic development organization, WESST Corp has, since its inception in 1989, assisted more than 1,850 businesses and helped create more than 2,600 jobs. It has run the individual development account program in Bernalillo County for the past three years. It was one of nine organizations in the country to receive a grant from the Ms. Foundation to assist companies in improving their presence on the internet. WESST Corp has offices in Albuquerque, Gallup, Las Cruces, Roswell and Santa Fe, and will soon be opening an office in Rio Rancho.

Belinda Jentzen, director of development for WESST Corp, briefed the committee on the new headquarters to be built in Albuquerque in 2007. The 36,600 square foot, two-story building will headquarter WESST Corp and provide space for up to 30 new businesses. The construction cost is estimated at \$8.4 million, of which \$6.0 million has been raised (including a \$1.25 million grant from the federal Economic Development Administration, \$3 million in state funds and \$1 million in private funds). Ms. Jentzen said the building has been designed to meet energy-efficient Leadership in Energy and Environmental Design (LEED) guidelines at the silver level, as established by the United States Green Building Council. Ms. Jentzen explained what goes into making a building LEED-certified. The City of Albuquerque has taken over ownership of the building in order to accommodate grant requirements. Ms. Jentzen then explained several of the businesses that WESST Corp has assisted.

Carol Radosevitch, WESST Corp board member, reviewed past legislative support for business incubators, including certification legislation and capital outlay appropriations. There will be a request for both operating and capital outlay funds.

Questions and comments by committee members concerned requirements and costs of a LEED-certified building, certification, the need for operating funds, areas served by WESST Corp and the types of clients assisted by WESST Corp.

Eminent Domain

J.D. Bullington and John Salazar, Esq., co-chairs of the Governor's Task Force on the Responsible Use of Eminent Domain by State and Local Governments, briefed the committee on the work of the task force and the report to the governor dated November 9, 2006. Mr. Bullington reviewed the establishment of the task force by executive order of the governor, the membership of the task force, the methodology followed by the task force in its deliberations, including opportunity for public comment, the essence of the *Kelo* decision handed down by the United States Supreme Court in 2005 validating the use of eminent domain for private development to foster economic development and the varying responses of states to the *Kelo* decision.

Mr. Salazar then reviewed the current New Mexico statutes regarding the use of eminent domain for economic development. Local governments have the unique authority to designate special economic development, renewal or revitalization areas within municipalities and to exercise the power of eminent domain in those areas. The Metropolitan Redevelopment Act, Urban Development Law and Community Development Law permit local governments to rehabilitate areas that have fallen into disrepair or become overridden by crime or violence, although the latter two statutes are seldom used. Mr. Salazar reviewed the mechanics of the Metropolitan Redevelopment Act and metropolitan redevelopment projects in New Mexico. In Rio Rancho, that act was used to address problems related to historical subdivision platting.

The task force made the following recommendations to the governor:

- 1) repeal the Urban Renewal Law and the Community Development Law (unanimous);

- 2) remove eminent domain authority from the Metropolitan Redevelopment Act (majority 10-7 vote);
- 3) combine and tighten the definition of "slum" and "blight area" (14-3 vote);
- 4) increase notice and hearing requirements of the Metropolitan Redevelopment Act (unanimous);
- 5) require relocation and transition assistance for displaced property owners (unanimous);
- 6) repeal Section 3-60A-6 NMSA 1978 of the Metropolitan Redevelopment Act (unanimous);
- 7) delete the term "conservation" from the Metropolitan Redevelopment Act (unanimous); and
- 8) change the contents of the Metropolitan Redevelopment Act by deleting the term "maximum" from Section 3-60A-9(C)(4) NMSA 1978 of that act.

A seven-member minority of the task force voted to retain the power to use eminent domain pursuant to the Metropolitan Redevelopment Act but recommended adding the following language to Section 3-60A-11 NMSA 1978: "No public agency authorized to condemn property under this act shall condemn private property for economic development purposes, except for the eradication of slum and blight as defined in this act".

Questions and comments from committee members concerned the reasons why the governor vetoed the eminent domain bill passed by the legislature in 2006, just compensation, the definitions of "slum" and "blighted", a rural focus on community development, uniform funding applications, the situation with land platting in Rio Rancho, members of the task force who voted for the minority report and the proposed definition of "slum" and the proposed formulation of a metropolitan redevelopment plan.

The meeting was recessed by Representative Garcia at 3:05 p.m. for a tour of the "Wild Fire" television set.

Tuesday, November 14

The meeting was reconvened by Representative Garcia on Tuesday, November 14, 2006, at 9:10 a.m. in the State Capitol.

Empowering Business Spirit Initiative

A number of speakers presented different economic development initiatives serving a variety of communities statewide. Christina McCandless, program manager for the Regional Development Corporation (RDC), explained some of the challenges of servicing small

businesses in rural New Mexico. The RDC assists New Mexico communities and industry in managing their economic development projects and initiatives. To demonstrate these challenges, the RDC created a "continuum of service" analysis that breaks down stages of business development from start-up to going public. The analysis allows the RDC to identify gaps in the services it provides and decipher the stage in which businesses fail. Ms. McCandless explained that there are large gaps in youth preparation and technical assistance in the second stage, when a business begins to develop growth needs, including new employees.

Barbara Deaux, executive director for the North Central New Mexico Economic Development District (NCNMEDD), announced the organization's receipt of a \$2 million Kellogg grant over three years for projects in a seven-county area, including Taos, Mora, Rio Arriba and San Miguel counties. The money is disbursed based on a single loan fund form and planning decisions are client-focused rather than grant-driven. The prominent spending issues, however, are how to make strategic investments and create a community that collaborates in problem solving. Ms. Deaux asked legislators for matching funds to improve the Espanola Valley Fibre Arts Centre, which aims to preserve and promote the rich textile heritage of northern New Mexico. From the client perspective, rural New Mexicans simply need reliable infrastructure for their businesses to succeed, including paved roads, trash pickups and broadband availability.

A representative from WESST Corp shared some success stories from its initiative, which aims to facilitate the start-up and growth of women- and minority-owned businesses throughout the state by providing consulting, training and loans. For example, Alexis Trujillo, an 11-year-old Espanola entrepreneur, described her "faithrocks" business and gave the legislators some of her products. WESST Corp helped Alexis to create a web site and market her painted stones around the world. Paul Romero, representative from Northern New Mexico Enlace, hosted "View into the Future", a business development class for students. Mr. Romero announced that the biggest potential upcoming project is the Rio Grande Chile initiative, where anyone with land can learn to farm ancestral seeds. This project is a reaction to the patent controversy caused by the Chimayo Chile name.

Telecommunications Issues and Internet Training

John Badal, CEO of Sacred Wind Communications, Inc., summarized the mission and activities of Sacred Wind Communications, a rural telecommunications company that services the Navajo Nation. Sacred Wind has administrative offices in Albuquerque and warehouses in both Bloomfield and Grants. The company operates on a business model that relies on federal assistance, which the company qualifies for as a rural telecom. In the past, Qwest had attempted to provide services to the Navajo Nation but could not receive similar assistance. As a result, Qwest lost money on every customer it served. Sacred Wind acquired much of Qwest's telephone operations. Sacred Wind began with \$2 million to navigate the regulatory process and design engineering. In September, Sacred Wind received approval on a \$70 million loan, most of which will be allocated to hardware for 6,000 unserved homes on the Navajo Nation. Less than 40 percent of homes have phone service and less than 50 percent of those homes have internet access. Mr. Badal asked the committee to sponsor a \$628,000 appropriation to staff and establish two mobile internet sites for use on the Navajo Nation. The mobile internet sites would

be housed in trailers, provide computer training, teach PC literacy and establish a culturally friendly ISP. Some legislators are concerned about anti-donation problems. In order to avoid this, the \$628,000 would be appropriated to the Indian Affairs Department.

Los Alamos/Sandia Small Business Program

Mariann Johnston of Los Alamos National Laboratory's (LANL) Community Programs Office, expressed LANL's desire to participate in the small business program beginning in 2007 with the goal to cultivate collaboration between Sandia National Laboratories and LANL. She asked the committee to sponsor legislation increasing the available tax credit from \$1.8 million to \$2.4 million per eligible national lab.

New Mexico Business Incubator Advisory Committee — Update

Marie Longserre, president of Santa Fe Business Incubator (SFBI), and Senator Leavell presented an appropriations request for \$750,000 to the Economic Development Department (EDD) to operate certified business incubators throughout the state. Ms. Longserre requested that the proposed bill limit the amount of money a single incubator can receive to \$150,000. She summarized the role of incubators in New Mexico as "mixed-use" and described the incubator's involvement in enterprises, LANL, arts and crafts, etc. The SFBI is housed in a 30,000 square foot facility on the south side of Santa Fe and has 19 recognized agency and organizational partners. It is one of two certified incubators in northern New Mexico.

Regulation of Generation and Transmission Cooperatives

Luis Reyes, general manager of the Kit Carson Electric Cooperative, briefed the committee on tension between Tri-State and individual cooperatives. Tri-State is a wholesaler of electric power owned by the 44 cooperatives it serves, 12 of which are located in New Mexico. Tri-State is opposed to legislation regulating rates, arguing that the process is currently reasonable and transparent. The company generates power at lower-than-market-rate prices. When the company cannot generate enough power, it must pay market price. Tri-State submits that cooperatives set rates for their individual consumers. Tri-State argues that heavier regulations increase the costs of Tri-State's credit, which will be passed on as rates increase. Independent cooperatives opposed to regulation argue that self-regulation works and that rural customers are paying far less than they were 10 years ago. Eleven of the 12 cooperatives within Tri-State are opposed to the regulations.

Kit Carson Electric Cooperative is leading the effort to regulate. In 2000, the Kit Carson Electric Cooperative became a member of Tri-State. Since its membership, rates have increased five times. The rate increases are falling on residential clients. Mr. Reyes described Tri-State as an unregulated monopoly and advocated for Public Regulation Commission (PRC) oversight. Currently, Kit Carson has a contract with Tri-State until 2024. Mr. Reyes alleges that any electric cooperative that does not sign a long contract gets a higher rate. He believes it is not in the best interest of New Mexico to be subject to rate discrimination, but does not oppose equal rate increases. Some consumers in attendance argued that regulations simply justify Tri-State's rates and promote open government. The proposed bill requires an independent study be submitted to the PRC when rate increases occur. The PRC, according to a letter from Chair Ben Ray Lujan, encouraged the committee to create additional oversight to create more transparency

and moderate the rate increases. Currently, the PRC has no authority to investigate Tri-State's estimates and financial reports.

Effectiveness of Tax Incentive Policies

Kelly O'Donnell, deputy secretary of economic development, distributed a presentation on creating a business friendly climate, focusing on tax incentives and the anti-donation clause. She explained that current data disclosure is limited, but a statutory change could allow the Taxation and Revenue Department to release data on the effectiveness of incentives. Based on the information disclosed, the report demonstrates that both the rural jobs tax credit and high-wage jobs tax credit are powerful. However, to analyze success, the EDD needs data on the jobs created when the business applies for the credit. Ms. O'Donnell requested that the committee consider statutory changes for plans to collect data, specify what data should be collected, create penalties for misreporting and give subpoena power to the EDD. On the flip side, the danger of allowing disclosure of proprietary data is that new competitors may gain an advantage.

Uranium Mining — State Update

A group representing the mining industry, John Indall, George Byers and Juan Velasquez, presented plans for uranium mining in New Mexico and the direction of the industry. Currently, the industry does not mine in New Mexico. However, over the last two years, mining companies have focused on exploration. The industry plans to add 4,000 mining jobs to New Mexico and 3,000 support jobs with milling operations. The industry plans on making capital investments of an estimated \$100 million.

Star Gonzales, executive director of Cibola County Economic Development, briefed the committee on benefits the uranium industry would bring to Cibola County, including jobs and money for hospitals and schools. Ms. Gonzales expects Cibola County to experience another boom should the industry decide to bring business. Legislators expressed concern about the boom-bust cycle that ultimately creates a community of displaced workers like the situation in Grants. Legislators discussed the hopeful future of energy policy and the focus on nuclear energy.

The meeting was recessed by Representative Garcia at 5:28 p.m.

Wednesday, November 15

The meeting was reconvened by Representative Garcia on Wednesday, November 15, 2006, at 9:10 a.m. in the State Capitol.

Economic Development Department — Legislative Update

Secretary of Economic Development Rick Homans addressed the committee, thanking it for its support during the last four years. He referred to the high-wage jobs tax credit and to the rural jobs tax credit and the three-year tax holiday for high-tech start-ups. In summarizing some of the other legislation enacted in recent years, he mentioned the economic development partnership and the State Investment Office's investments in New Mexico companies designed to create jobs. He gave the committee copies of the EDD's annual report. Summarizing the report,

he talked about the status of the certified communities and the Main Street programs, and the results of the SMART Money Program of the New Mexico Finance Authority. A new program, called "Homefield Advantage" is a program focusing on statewide retention and expansion of existing businesses. It consists of a team of department employees who work in a partnership with nonprofits and other state agencies that provide specific assistance programs to existing businesses, he said. These programs include the Manufacturing Extension Partnership (MEP), small business development centers and business support programs through Sandia National Laboratories and LANL. He also mentioned the workforce training and development program that is striving to align public education, higher education and the many training programs with the state's economic development goals. There is also the Rural Action Economic Partnership, an interagency group that meets monthly to review projects and to coordinate support.

He explained that several major initiatives include efforts to build a spaceport and develop a space industry in New Mexico. Capitalizing on New Mexico's air space and aviation resources, he mentioned the administration's efforts to support Eclipse Aviation, LoPresti Aviation, Virgin Galactic, Starchaser and the X-Prize Cup. He discussed progress in attracting filmmakers and digital media enterprises, referring to the construction in Albuquerque of studios and sound stages. Renewable energy, he said, is another area the department is pursuing, including Advent Solar and why there are dozens of projects taking place all over the state in the fields of biofuels, hydrogen fuel cells, solar energy and wind power. He closed by describing efforts to foster technology transfer from the universities and national laboratories to stimulate jobs in fields such as optics, lasers, information technology, nanotechnology and microsystems. He said the department is working to advance these newer industries while still trying to help the smallest and most threatened communities retain banks or credit unions. He said efforts to retain and encourage traditional industries have not been forgotten, either. He cited Union Pacific investing about \$2 million just west of Santa Teresa to build a fueling station, block swap yard and an intermodal facility and Southwest Cheese opening a \$225 million facility, the largest cheddar cheese plant in North America, in Clovis.

Questions and discussion from committee members addressed:

- a \$1.69 million request in the department's budget;
- \$1.41 million for the partnership;
- the status of the spaceport;
- the committee's tour of the Wildfire television series set;
- the international trade office presence in Asia and Europe;
- the partnership expansion request;
- the study for potential reuse of the Pittsburgh and Midway Coal Mine facilities near Gallup;
- rural community assistance; and
- the need for more electric transmission capacity.

Legislative Endorsements

The committee considered and voted on endorsing the following legislation for the 2007 legislative session:

Representative Foley moved and Senator Garcia seconded that the committee endorse a bill amending the Public Utility Act (202.163646.1) that will be sponsored by Representative Heaton. The motion passed unanimously.

Senator Harden moved and Representative Nunez seconded that the committee endorse a bill restricting the role of the state in activities related to WIRE New Mexico (202.163726.2) that will be sponsored by Representative Campos. The motion passed with Senator Sharer in opposition.

Representative Heaton moved and Senator Garcia seconded that the committee endorse a bill regarding tax credits for laboratory partnerships (202.163475.1) that will be sponsored by Senator Michael S. Sanchez. The motion passed unanimously.

Senator Garcia moved and Representative Lundstrom seconded that the committee endorse both bills enacting versions of a Surface Owners Protection Act (202.163342.2 and 202.163394.1). Following discussion, Representative Foley moved and Representative Hamilton seconded a substitute motion that the committee endorse neither bill. The substitute motion passed with Senator Harden in opposition.

Representative Campos moved and Representative Foley seconded that the committee endorse a bill amending the Family Opportunities Act (202.164013.2) that will be sponsored by Representative Garcia. The motion passed unanimously.

Representative Foley moved and Senator Garcia seconded a motion that the committee endorse an appropriation bill in the amount of \$7 million to support the chile industry (202.163811.1) that will be sponsored by Representative Garcia. The motion passed unanimously.

Representative Foley moved and Senator Garcia seconded a motion that the committee endorse an appropriation bill in the amount of \$5 million for improvements to Red Rock State Park (202.163835.1) that will be sponsored by Senator Pinto and Representative Lundstrom. The motion passed unanimously.

Representative Foley moved and Senator Garcia seconded a motion that the committee endorse an appropriation bill in the amount of \$600,000 for the cooperative advertising program of the EDD (202.163834.1) that will be sponsored by Senator Garcia and Representative Lundstrom. The motion passed unanimously.

Representative Foley moved and Senator Garcia seconded a motion that the committee endorse an appropriation bill in the amount of \$250,000 for a farmers' market program for nutritionally at-risk and low-income senior citizens (202.163451.1) that will be sponsored by Senator Ben D. Altamirano. The motion passed unanimously.

Representative Foley moved and Senator Garcia seconded a motion that the committee endorse an appropriation bill in the amount of \$750,000 for certified business incubators

(202.164030.1) that will be sponsored by Senator Leavell. The motion passed unanimously.

Representative Foley moved and Senator Garcia seconded a motion that the committee endorse an appropriation bill in the amount of \$12 million for the Technology Research Collaborative (202.164016.1) that will be sponsored by Senator Cisneros and Representative Salazar. The motion passed unanimously.

Representative Foley moved and Senator Garcia seconded a motion that the committee endorse an appropriation bill in the amount of \$1.3 million for manufacturing extension services (202.164018.1) that will be sponsored by Senator Garcia. The motion passed unanimously.

Senator Garcia moved and Senator Sharer seconded a motion that the committee endorse an appropriation bill in the amount of \$628,000 for an internet training program for chapters of the Navajo Nation in New Mexico (202.164034.1, as amended) that will be sponsored by Senator Bernadette M. Sanchez. The motion passed unanimously.

Representative Foley moved and Representative Campos seconded a motion that the committee endorse an appropriation bill in the amount of \$250,000 for SBIR outreach programs that will be sponsored by Senator Ryan and Representative Foley. The motion passed unanimously.

Representative Foley moved and Representative Garcia seconded a motion that the committee endorse a house joint memorial to be sponsored by Representative Herrera that will request the appointment of a task force to study and propose a pilot project to increase access to healthy foods for rural New Mexicans. It was agreed that the final language would be approved by the committee chair and vice chair. The motion passed with Senator Sharer and Representative Foley opposed.

Adjournment

There being no further business before the committee, the sixth meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was adjourned at 11:41 a.m.

ERDT COMMITTEE - 2007 LEGISLATIVE ENDORSEMENTS

<u>202 File Number</u>	<u>Topic</u>	<u>Senate Sponsor</u>	<u>House Sponsor</u>	<u>Objecting</u>
<u>163646.1</u>	<u>Public Utility Act</u>		<u>John A. Heaton</u>	
<u>163726.2</u>	<u>WIRE New Mexico</u>		<u>Jose A. Campos</u>	<u>William E. Sharer</u>
<u>163454.5</u>	<u>Payday Lending</u>		<u>Patricia A. Lundstrom</u>	<u>Bernadette M. Sanchez</u>
<u>163475.1</u>	<u>Tax Credits/Laboratory Partnerships</u>	<u>Michael S. Sanchez</u>	<u>Ben Lujan</u>	
<u>164013.2</u>	<u>Individual Development Accounts</u>		<u>Mary Helen Garcia</u>	
<u>163811.1</u>	<u>\$7 Million/Chile Industry</u>		<u>Mary Helen Garcia</u>	
<u>163835.1</u>	<u>\$5 Million/Red Rock State Park</u>	<u>John Pinto</u>	<u>Patricia A. Lundstrom</u>	
<u>163834.1</u>	<u>\$600,000 Economic Development, Co-op Advertising</u>	<u>Mary Jane M. Garcia</u>	<u>Patricia A. Lundstrom</u>	
<u>163451.1</u>	<u>\$250,000 Sr. Citizen Farmers Market</u>	<u>Ben D. Altamirano</u>		
<u>163030.1</u>	<u>\$750,000 Business Incubators</u>	<u>Carroll H. Leavell</u>		
<u>164016.1</u>	<u>\$12 Million Technology Research Collaborative</u>	<u>Carlos R. Cisneros</u>	<u>Nick L. Salazar</u>	
<u>164018.1</u>	<u>\$1.3 Million Manufacturing Extension Services</u>	<u>Mary Jane M. Garcia</u>		
<u>164034.1</u>	<u>\$628,000 Navajo Nation Internet Training</u>	<u>Bernadette M. Sanchez</u>		
	<u>\$250,000 SBIR Outreach</u>	<u>John C. Ryan</u>	<u>Daniel R. Foley</u>	
	<u>Memorial: Access to Healthy Foods</u>		<u>Manuel G. Herrera</u>	<u>William E. Sharer</u> <u>Daniel R. Foley</u>

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND
TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO ENERGY; AMENDING SECTIONS OF THE PUBLIC UTILITY ACT
TO PROVIDE FOR ELECTRIC UTILITIES TO RECOVER ALL REASONABLE
COSTS INCURRED FOR INVESTMENT IN NEW TRANSMISSION FACILITIES
THAT ARE CERTIFIED AND APPROVED BY THE PUBLIC REGULATION
COMMISSION TO FACILITATE ECONOMIC DEVELOPMENT AND DEVELOPMENT
OF RENEWABLE ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 62-8-7 NMSA 1978 (being Laws 1991,
Chapter 251, Section 1, as amended) is amended to read:

"62-8-7. CHANGE IN RATES.--

A. At any hearing involving an increase in rates or
charges sought by a public utility, the burden of proof to show
that the increased rate or charge is just and reasonable shall
be upon the utility.

.163646.1

1 B. Unless the commission otherwise orders, no
2 public utility shall make any change in any rate that has been
3 duly established except after thirty days' notice to the
4 commission, which notice shall plainly state the changes
5 proposed to be made in the rates then in force and the time
6 when the changed rates will go into effect and other
7 information as the commission by rule requires. The utility
8 shall also give notice of the proposed changes to other
9 interested persons as the commission may direct. All proposed
10 changes shall be shown by filing new schedules that shall be
11 kept open to public inspection. The commission for good cause
12 shown may allow changes in rates without requiring the thirty
13 days' notice, under conditions that it may prescribe.

14 C. Whenever there is filed with the commission by
15 any public utility a complete application as prescribed by
16 commission rule proposing new rates, the commission may, upon
17 complaint or upon its own initiative, except as otherwise
18 provided by law, upon reasonable notice, enter upon a hearing
19 concerning the reasonableness of the proposed rates. If the
20 commission determines a hearing is necessary, it shall suspend
21 the operation of the proposed rates before they become
22 effective but not for a longer initial period than nine months
23 beyond the time when the rates would otherwise go into effect,
24 unless the commission finds that a longer time will be
25 required, in which case the commission may extend the period

1 for an additional three months. The commission shall hear and
2 decide cases with reasonable promptness. The commission shall
3 adopt rules identifying criteria for various rate and tariff
4 filings to be eligible for suspension periods shorter than what
5 is allowed by this subsection and to be eligible for summary
6 approval without hearing.

7 D. If after a hearing the commission finds the
8 proposed rates to be unjust, unreasonable or in any way in
9 violation of law, the commission shall determine the just and
10 reasonable rates to be charged or applied by the utility for
11 the service in question and shall fix the rates by order to be
12 served upon the utility or the commission by its order shall
13 direct the utility to file new rates respecting such service
14 that are designed to produce annual revenues no greater than
15 those determined by the commission in its order to be just and
16 reasonable. Those rates shall thereafter be observed until
17 changed, as provided by the Public Utility Act.

18 E. Except as otherwise provided by law, any
19 increase in rates or charges for the utility commodity based
20 upon cost factors other than taxes or cost of fuel, gas or
21 purchased power, filed for after April 4, 1991, shall be
22 permitted only after notice and hearing as provided by this
23 section. The commission shall enact rules governing the use of
24 tax, fuel, gas or purchased power adjustment clauses by
25 utilities that enable the commission to consider periodically

1 at least the following:

2 (1) whether the existence of a particular
3 adjustment clause is consistent with the purposes of the Public
4 Utility Act, including serving the goal of providing reasonable
5 and proper service at fair, just and reasonable rates to all
6 customer classes;

7 (2) the specific adjustment mechanism to
8 recover tax, gas, fuel or purchased power costs;

9 (3) which costs should be included in an
10 adjustment clause, procedures to avoid the inclusion of costs
11 in an adjustment clause that should not be included and methods
12 by which the propriety of costs that are included may be
13 determined by the commission in a timely manner, including what
14 informational filings are required to enable the commission to
15 make such a determination; and

16 (4) the proper adjustment period to be
17 employed.

18 F. The commission shall adopt rules that provide
19 for full and timely cost recovery of an electric utility's
20 investment in new transmission facilities that are certified
21 and approved by the commission to facilitate economic
22 development and development of renewable energy in the state.
23 The rules shall provide for a transmission rate adjustment
24 clause that authorizes monthly rate adjustments outside of a
25 general rate case to reflect investment and costs incurred by

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1 an electric utility to comply with a commission order pursuant
2 to the Public Utility Act.

3 [F-] G. The commission may eliminate or condition a
4 particular adjustment clause if it finds such elimination or
5 condition is consistent with the purposes of the Public Utility
6 Act, including serving the goal of providing reasonable and
7 proper service at fair, just and reasonable rates to all
8 customer classes; provided, however, that no such elimination
9 or condition shall be ordered unless such elimination or
10 condition will not place the affected utility at a competitive
11 disadvantage. The commission rules shall also provide for
12 variances and may provide for separate examination of a
13 utility's adjustment clause based upon that utility's
14 particular operating characteristics.

15 [G-] H. Whenever there is filed with the commission
16 a schedule proposing new rates by a rural electric cooperative
17 organized under the Rural Electric Cooperative Act, the rates
18 shall become effective as proposed by the rural electric
19 cooperative without a hearing. However, the cooperative shall
20 give written notice of the proposed rates to its affected
21 patrons at least thirty days prior to the filing with the
22 commission, and the commission shall suspend the rates and
23 conduct a hearing concerning the reasonableness of any proposed
24 rates filed by a rural electric cooperative pursuant to
25 Subsections C and D of this section upon the filing with the

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1 commission of a protest setting forth grounds for review of the
2 proposed rates signed by one or more members of the rural
3 electric cooperative and if the commission determines there is
4 just cause for reviewing the proposed rates on one or more of
5 the grounds of the protest. The protest shall be filed no
6 later than twenty days after the filing with the commission of
7 the schedule proposing the new rates. The hearing and review
8 shall be limited to the issues set forth in the protest and for
9 which the commission may find just cause for the review, which
10 issues shall be contained in the notice of hearing. The
11 provisions of this subsection shall not be construed to affect
12 commission authority or procedure to regulate the sale,
13 furnishing or delivery by wholesale suppliers of electricity to
14 rural electric cooperatives pursuant to Section 62-6-4 NMSA
15 1978. In addition to the adjustments permitted by Subsections
16 E [~~and F~~] through G of this section, the commission may
17 authorize rate schedules of rural electric cooperatives to
18 recover, without notice and hearing, changes in the cost of
19 debt capital incurred pursuant to securities that are lawfully
20 issued. For the purposes of this subsection, a member of a
21 rural electric cooperative is a member as defined by the Rural
22 Electric Cooperative Act."

23 Section 2. Section 62-9-1 NMSA 1978 (being Laws 1941,
24 Chapter 84, Section 46, as amended) is amended to read:

25 "62-9-1. NEW CONSTRUCTION--RATEMAKING PRINCIPLES.--

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1 A. No public utility shall begin the construction
2 or operation of any public utility plant or system or of any
3 extension of any plant or system without first obtaining from
4 the commission a certificate that public convenience and
5 necessity require or will require such construction or
6 operation. This section does not require a public utility to
7 secure a certificate for an extension within any municipality
8 or district within which it lawfully commenced operations
9 before June 13, 1941 or for an extension within or to territory
10 already served by it, necessary in the ordinary course of its
11 business, or for an extension into territory contiguous to that
12 already occupied by it and that is not receiving similar
13 service from another utility. If any public utility or mutual
14 domestic water consumer association in constructing or
15 extending its line, plant or system unreasonably interferes or
16 is about to unreasonably interfere with the service or system
17 of any other public utility or mutual domestic water consumer
18 association rendering the same type of service, the commission,
19 on complaint of the public utility or mutual domestic water
20 consumer association claiming to be injuriously affected, may,
21 upon and pursuant to the applicable procedure provided in
22 Chapter 62, Article 10 NMSA 1978, and after giving due regard
23 to public convenience and necessity, including reasonable
24 service agreements between the utilities, make an order and
25 prescribe just and reasonable terms and conditions in harmony

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1 with the Public Utility Act to provide for the construction,
2 development and extension, without unnecessary duplication and
3 economic waste.

4 B. If a certificate of public convenience and
5 necessity is required pursuant to this section for the
6 construction or extension of a generating plant or transmission
7 lines and associated facilities, a public utility may include
8 in the application for the certificate a request that the
9 commission determine the ratemaking principles and treatment
10 that will be applicable for the facilities that are the subject
11 of the application for the certificate. If such a request is
12 made, the commission shall, in the order granting the
13 certificate, set forth the ratemaking principles and treatment
14 that will be applicable to the public utility's stake in the
15 certified facilities in all ratemaking proceedings on and after
16 such time as the facilities are placed in service. The
17 commission shall use the ratemaking principles and treatment
18 specified in the order in all proceedings in which the cost of
19 the public utility's stake in the certified facilities is
20 considered. If the commission later decertifies the
21 facilities, the commission shall apply the ratemaking
22 principles and treatment specified in the original
23 certification order to the costs associated with the facilities
24 that were incurred by the public utility prior to
25 decertification.

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1 C. If the commission issues a certificate of
2 convenience and necessity to an electric utility for
3 transmission and transmission-related facilities or if the
4 commission orders an electric utility to construct or enlarge
5 transmission or transmission-related facilities that the
6 commission determines are needed for achieving the goals of
7 promoting economic development or development of renewable
8 energy projects, the commission shall find that the
9 transmission facilities are used and useful for providing
10 public utility service in accordance with this section and are
11 prudent and includable in the utility's rate base, regardless
12 of the extent of the utility's actual use of the facilities.

13 [~~E.~~] D. The commission may approve the application
14 for the certificate without a formal hearing if no protest is
15 filed within sixty days of the date that notice is given,
16 pursuant to commission order, that the application has been
17 filed. The commission shall issue its order granting or
18 denying the application within nine months from the date the
19 application is filed with the commission. Failure to issue its
20 order within nine months is deemed to be approval and final
21 disposition of the application; provided, however, that the
22 commission may extend the time for granting approval for an
23 additional six months for good cause shown.

24 [~~D.~~] E. As used in this section, "mutual domestic
25 water consumer association" means an association created and

1 organized pursuant to the provisions of:

2 (1) Laws 1947, Chapter 206; Laws 1949, Chapter
3 79; or Laws 1951, Chapter 52; or

4 (2) the Sanitary Projects Act."

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO ADMINISTRATION OF GOVERNMENT; PROVIDING FOR THE
GENERAL SERVICES DEPARTMENT'S AUTHORITY TO PROVIDE
TELECOMMUNICATIONS SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 15 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] TELECOMMUNICATIONS SERVICES--STATE
AGENCIES.--In providing telecommunications services pursuant to
Chapter 15 NMSA 1978, the radio communications bureau and the
telecommunications bureau of the communications division of the
general services department shall not provide
telecommunications services, including telephone, data and
broadband services, to any entity other than a department,
institution or agency of the state government."

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1 Section 2. Section 15-2-2.1 NMSA 1978 (being Laws 1997,
2 Chapter 263, Section 1) is amended to read:

3 "15-2-2.1. LEASE OF RADIO COMMUNICATIONS NETWORK--
4 CONDITIONS AND REQUIREMENTS.--In exercising supervisory control
5 pursuant to Section 15-2-2 NMSA 1978, the radio communications
6 bureau of the communications division of the general services
7 department may lease to a private entity excess capacity on its
8 radio communications property, including buildings, towers or
9 antennas, provided that:

10 A. the lease conforms with competitive procurement
11 requirements of the Procurement Code;

12 B. the lease is for an equal value exchange of
13 money or property;

14 C. the secretary of general services certifies that
15 the excess capacity will be available for at least the duration
16 of the lease;

17 D. if the lease exceeds ten years, the lease is
18 first approved by the state board of finance;

19 E. the radio communications bureau has submitted to
20 the legislative finance committee a detailed plan for the use
21 of excess capacity being leased and an assessment of how the
22 lease will affect public sector uses and local
23 telecommunications service providers; and

24 F. income from the leases shall be deposited to the
25 credit of the radio communications bureau and used to carry out

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underscored material = new
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1 the duties of the bureau."

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE
AND THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO FINANCIAL TRANSACTIONS; PROVIDING FOR THE
LIMITATION OF FEES AND REGULATION OF PAYDAY LOANS; AMENDING,
REPEALING AND ENACTING CERTAIN PROVISIONS OF THE NEW MEXICO
SMALL LOAN ACT OF 1955.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-15-2 NMSA 1978 (being Laws 1955,
Chapter 128, Section 2, as amended) is amended to read:

"58-15-2. DEFINITIONS.--The following words and terms
when used in the New Mexico Small Loan Act of 1955 [~~shall~~] have
the following meanings unless the context clearly requires a
different meaning. The meaning ascribed to the singular form
[~~shall apply~~] applies also to the plural:

[A. ~~"person" shall include individuals, copartners,
associations, trusts, corporations and any other legal entity;~~]

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1 A. "consumer" means a person who enters into a loan
2 agreement and receives the loan proceeds in New Mexico;

3 B. "debit authorization" means an authorization
4 signed by a consumer to electronically transfer or withdraw
5 funds from the consumer's account for the specific purpose of
6 repaying a loan;

7 C. "department" or "division" means the financial
8 institutions division of the regulation and licensing
9 department;

10 D. "director" means the director of the division;

11 E. "installment loan" means a loan that is to be
12 repaid in a minimum of four successive substantially equal
13 payment amounts to pay off a loan in its entirety with a period
14 of no less than one hundred twenty days to maturity;

15 [~~B.~~] F. "license" [shall mean] means a permit
16 issued under the authority of the New Mexico Small Loan Act of
17 1955 to make loans and collect charges therefor strictly in
18 accordance with the provisions of [the New Mexico Small Loan
19 Act of 1955] that act at a single place of business. It shall
20 constitute and shall be construed as a grant of a [revokable]
21 revocable privilege only to be held and enjoyed subject to all
22 the conditions, restrictions and limitations contained in the
23 New Mexico Small Loan Act of 1955 and lawful regulations
24 promulgated by the director [of the financial institutions
25 division] and not otherwise;

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1 ~~[G.]~~ G. "licensee" ~~[shall mean]~~ means a person to
2 whom one or more licenses have been issued ~~[hereunder]~~ pursuant
3 to the New Mexico Small Loan Act of 1955 upon ~~[their]~~ the
4 person's written application electing to become a licensee and
5 consenting to exercise the privilege of a licensee solely in
6 conformity with the New Mexico Small Loan Act of 1955 and the
7 lawful regulations promulgated by the director ~~[of the~~
8 ~~financial institutions division hereunder]~~ under that act and
9 whose name ~~[or names appear]~~ appears on the face of the
10 license;

11 ~~[D. "director" means the director of the financial~~
12 ~~institutions division of the commerce and industry and~~
13 ~~licensing department;~~

14 ~~E. "department" means the financial institutions~~
15 ~~division of the commerce and industry department;]~~

16 H. "payday loan" means a loan in which the licensee
17 accepts a personal check or debit authorization tendered by the
18 consumer and agrees in writing to defer presentment of that
19 check or use of the debit authorization until the consumer's
20 next payday or another date agreed to by the licensee and the
21 consumer and:

22 (1) includes any advance of money or
23 arrangement or extension of credit whereby the licensee, for a
24 fee, finance charge or other consideration:

25 (a) accepts a dated personal check or

1 debit authorization for the specific purpose of repaying a
2 payday loan;

3 (b) agrees to hold a dated personal
4 check or debit authorization for a period of time prior to
5 negotiating or depositing the personal check or debit
6 authorization; or

7 (c) pays to the consumer, credits to the
8 consumer's account or pays another person on behalf of the
9 consumer the amount of an instrument actually paid or to be
10 paid pursuant to the New Mexico Small Loan Act of 1955; but

11 (2) does not include:

12 (a) an overdraft product or service
13 offered by a banking corporation, savings and loan association
14 or credit union; and

15 (b) installment loans;

16 I. "payday loan product" means a payday loan, a
17 renewed payday loan and a payment plan pursuant to Section
18 58-15-36 NMSA 1978;

19 J. "person" includes an individual, copartner,
20 association, trust, corporation and any other legal entity;

21 K. "renewed payday loan" means a loan in which a
22 consumer pays in cash the administrative fee payable under a
23 payday loan agreement and refinances all or part of the unpaid
24 principal balance of an existing payday loan with a new payday
25 loan from the same licensee. A "renewed payday loan" includes

1 a transaction in which a consumer pays off all or part of an
2 existing payday loan with the proceeds of a payday loan from
3 the same licensee; and

4 L. "simple interest" means a method of calculating
5 interest in which the amount of interest is calculated based on
6 the annual interest rate disclosed in the loan agreement and is
7 computed only on the outstanding principal balance of the
8 loan."

9 Section 2. Section 58-15-3 NMSA 1978 (being Laws 1955,
10 Chapter 128, Section 3, as amended) is amended to read:

11 "58-15-3. APPLICABILITY OF ACT--EXEMPTIONS--EVASIONS--
12 PENALTY.--

13 A. ~~[No]~~ A person shall not engage in the business
14 of lending in amounts of two thousand five hundred dollars
15 (\$2,500) or less for a loan without first having obtained a
16 license from the director. Nothing contained in this
17 subsection shall restrict or prohibit a licensee under the New
18 Mexico Small Loan Act of 1955 from making loans in any amount
19 under the New Mexico Bank Installment Loan Act of 1959 in
20 accordance with the provisions of Section 58-7-2 NMSA 1978.

21 B. Nothing in the New Mexico Small Loan Act of 1955
22 shall apply to a person making individual advances of two
23 thousand five hundred dollars (\$2,500) or less under a written
24 agreement providing for a total loan or line of credit in
25 excess of two thousand five hundred dollars (\$2,500) ~~[for which~~

1 ~~real estate is pledged as collateral].~~

2 C. ~~[Any]~~ A banking corporation, savings and loan
3 association or credit union operating under the laws of the
4 United States or of ~~[New Mexico]~~ a state shall be exempt from
5 the licensing requirements of the New Mexico Small Loan Act of
6 1955, nor shall that act apply to ~~[any]~~ business transacted by
7 any ~~[such]~~ person under the authority of and as permitted by
8 any such law nor to any bona fide pawnbroking business
9 transacted under a pawnbroker's license nor to bona fide
10 commercial loans made to dealers upon personal property held
11 for resale. Nothing contained in the New Mexico Small Loan Act
12 of 1955 shall be construed as abridging the rights of any of
13 those exempted from the operations of that act from contracting
14 for or receiving interest or charges not in violation of ~~[any]~~
15 an existing applicable statute of this state.

16 D. The provisions of Subsection A of this section
17 apply to ~~[any]~~:

18 (1) a person ~~[owning any]~~ who owns an
19 interest, legal or equitable, in the business or profits of
20 ~~[any]~~ a licensee and whose name does not specifically appear on
21 the face of the license, except a stockholder in a corporate
22 licensee; and

23 ~~[to any]~~ (2) a person who seeks to evade its
24 application by any device, subterfuge or pretense whatsoever,
25 including but not thereby limiting the generality of the

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foregoing:

(a) the loan, forbearance, use or sale of credit (as guarantor, surety, endorser, comaker or otherwise), money, goods or things in action;

(b) the use of collateral or related sales or purchases of goods or services or agreements to sell or purchase, whether real or pretended;

(c) receiving or charging compensation for goods or services, whether or not sold, delivered or provided; and

(d) the real or pretended negotiation, arrangement or procurement of a loan through any use or activity of a third person, whether real or fictitious.

E. ~~[Any]~~ A person, copartnership, trust ~~[and the trustees or beneficiaries thereof]~~ or a trustee or beneficiary thereof or an association or corporation ~~[and the several members, officers, directors, agents and employees thereof who violate or participate]~~ or a member, officer, director, agent or employee thereof who violates or participates in the violation of ~~[any]~~ a provision of Subsection A of this section is guilty of a petty misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Subsection B of Section 31-19-1 ~~[(B)]~~ NMSA 1978. ~~[Any]~~ A contract or loan in the making or collection of which ~~[any]~~ an act is done that violates Subsection A or D of this

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1 section is void and the lender has no right to collect, receive
2 or retain any principal, interest or charges whatsoever."

3 Section 3. Section 58-15-5 NMSA 1978 (being Laws 1978,
4 Chapter 6, Section 1, as amended) is amended to read:

5 "58-15-5. LICENSES--INVESTIGATION OF APPLICATION--
6 ISSUANCE--DENIAL--ISSUANCE OF RENEWAL LICENSE--DENIAL OF
7 RENEWAL LICENSE--FITNESS AND CHARACTER OF APPLICANT--LICENSE
8 FEES--LICENSEE BOUND BY ACT.--

9 A. Upon the filing of an application, whether it is
10 an original or a renewal, the director shall investigate the
11 facts concerning the application and the requirements provided
12 in this section.

13 ~~[Any]~~ B. An applicant for license, upon written
14 notice to do so by the director, shall, within twenty days
15 after service of the notice, furnish in writing, under oath, to
16 the director ~~[any and]~~ all additional information required by
17 the director that may be relevant or, in the opinion of the
18 director, helpful ~~[to him]~~ in conducting ~~[his]~~ the
19 investigation.

20 C. Failure to comply with the director's
21 requirement for supplemental information or the willful
22 furnishing of false information is sufficient ~~[ground]~~ grounds
23 for denial of license.

24 D. False or misleading information willfully and
25 intentionally furnished to the director prior to the issuance

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1 of any license is [~~ground~~] grounds for suspension or revocation
2 of any license in accordance with the procedures for suspension
3 or revocation of license in the New Mexico Small Loan Act of
4 1955.

5 E. The director shall grant or deny each
6 application for an original license within sixty days from the
7 filing of the application with the required information and
8 fees, unless the period is extended by written agreement
9 between the applicant and the director.

10 [~~B.~~] F. In the event the director finds that:

11 (1) [~~that~~] the financial responsibility,
12 character and general fitness of the applicant for an original
13 license and of the individual members and beneficiaries
14 thereof, if the applicant is a copartnership, association or
15 trust, and of the officers and directors thereof, if the
16 applicant is a corporation, are such as to command the
17 confidence of the public and to warrant belief that the
18 business will be operated lawfully, honestly, fairly and
19 efficiently within the declared purposes and spirit of the New
20 Mexico Small Loan Act of 1955;

21 (2) [~~that~~] allowing the applicant to engage in
22 business will promote the convenience and advantage of the
23 community in which the business of the applicant is to be
24 conducted; and

25 (3) [~~that~~] the applicant has available for

1 operation of the business at the specified location cash or its
2 equivalent, convertible securities or receivables of thirty
3 thousand dollars (\$30,000) or any combination thereof;

4 ~~[he]~~ the director shall enter an order granting the
5 application, file ~~[his]~~ the director's findings and, upon
6 payment of the license fee of five hundred dollars (\$500),
7 issue and deliver a license to the applicant.

8 ~~[G.]~~ G. If the director does not make the findings
9 enumerated in Subsection ~~[B]~~ F of this section, ~~[he]~~ the
10 director shall enter an order denying the application, notify
11 the applicant of the denial and retain the application fee.
12 Within thirty days after the entry of such an order, ~~[he]~~ the
13 director shall prepare written findings and shall deliver a
14 copy to the applicant.

15 ~~[D.]~~ H. A written application for license renewal
16 ~~[licenses]~~ shall be filed on or before March 31 of each year,
17 and thereupon the director shall investigate the facts and
18 review ~~[his]~~ the files of examinations of the applicant made by
19 ~~[his]~~ the director's office and of complaints filed by
20 borrowers, if any. The director shall deliver a renewal
21 license to the applicant if ~~[he]~~ the director finds that:

22 (1) ~~[that]~~ no valid complaints of violations
23 or abuses of the New Mexico Small Loan Act of 1955 or of the
24 regulations of the director promulgated under that act have
25 been filed by borrowers;

1 (2) [~~that his~~] examinations of the affairs of
2 the applicant indicate that the business has been conducted and
3 operated lawfully and efficiently within the declared purposes
4 and spirit of the New Mexico Small Loan Act of 1955; and

5 (3) [~~that~~] the financial responsibility,
6 experience and general fitness and character of the applicant
7 remain such as to command the confidence of the public and to
8 warrant the belief that the business will continue to be
9 operated lawfully and efficiently within the purposes and
10 spirit of the New Mexico Small Loan Act of 1955. [~~he shall~~
11 ~~deliver a renewal license to the applicant.~~

12 ~~E.]~~ I. If the director does not make the findings
13 enumerated in Subsection [~~D~~] H of this section, [~~he~~] the
14 director may grant a temporary extension of the license not
15 exceeding sixty days pending a hearing; shall enter an order
16 fixing a date for hearing upon the application; shall notify
17 the licensee thereof, specifying the particular complaints,
18 violations or abuses or other reasons for [~~his~~] the director's
19 contemplated refusal to renew the license; and shall afford to
20 the applicant an opportunity to be heard. At the hearing, the
21 director shall produce [~~his~~] evidence to establish the truth of
22 the charges of violation or other grounds specified in the
23 notice, and the applicant shall be accorded the right to
24 produce evidence or other matters of defense. If after the
25 hearing the director finds that the complaints of violations or

1 other grounds specified in the notice are not well-founded,
2 [~~he~~] the director shall issue the renewal license. If [~~he~~] the
3 director finds that the complaints of violations or other
4 grounds are well-founded, [~~he~~] the director shall enter an
5 order denying the renewal application and notify the applicant
6 of the denial, returning the renewal license fee tendered with
7 the application. Within thirty days after the entry of such an
8 order, [~~he~~] the director shall prepare written findings and
9 shall deliver a copy of the findings to the applicant. The
10 order shall be subject to review as provided in Section
11 58-15-25 NMSA 1978. The court in its discretion and upon
12 proper showing may order a temporary extension of the license
13 pending disposition of the review proceedings.

14 ~~[F.]~~ J. In connection with the determination of
15 fitness and character of an applicant [~~under~~] pursuant to the
16 provisions of this section, the fact that the applicant or
17 licensee is a member of or interested financially in, connected
18 or affiliated with, controls or is controlled by or owns or is
19 owned by other corporations, partnerships, trusts, associations
20 or other legal entities engaged in the lending of money whose
21 policies and practices as to rates of interest, charges and
22 fees and general dealing with borrowers are questionable or
23 would constitute violation of the general usury statutes of
24 this state or of the declared purposes and spirit of the New
25 Mexico Small Loan Act of 1955 shall be given such consideration

1 and weight as the director determines.

2 [G.] K. At the time of issuance of original license
3 and each annual renewal thereof, the licensee for each licensed
4 office shall pay to the director as a license fee for the
5 period covered by the license the sum of five hundred dollars
6 (\$500) as a minimum, plus an additional seventy-five cents
7 (\$.75) for each one thousand dollars (\$1,000) or fraction
8 thereof of loans outstanding as of December 31 next preceding,
9 as shown on the applicant's annual report. In the event that
10 the application for annual renewal of the license is
11 delinquent, the licensee shall also pay a delinquency fee of
12 ten dollars (\$10.00) per day for each day the licensee is
13 delinquent in filing the application for renewal.

14 [H.—Each] L. A licensee by accepting [~~any~~] a
15 license that is issued or renewed or by continuing to operate
16 [~~any~~] a licensed office under the New Mexico Small Loan Act of
17 1955 shall by such action be deemed to have consented to be
18 bound by the lawful provisions of that act and all lawful
19 requirements, regulations and orders of the director
20 promulgated or issued pursuant to any authorization granted in
21 that act."

22 Section 4. Section 58-15-9 NMSA 1978 (being Laws 1955,
23 Chapter 128, Section 9, as amended) is amended to read:

24 "58-15-9. EXAMINATION OF LICENSEE'S BOOKS AND RECORDS--
25 WITNESSES.--

.163454.5GR

1 A. At least once each year, the director or [~~his~~
2 ~~duly~~] the director's authorized representative shall make an
3 examination of the place of business of each licensee and [~~such~~
4 ~~of~~] the loans, transactions, books, papers and records of the
5 licensee insofar as they pertain to the business licensed under
6 the New Mexico Small Loan Act of 1955 as [~~he~~] the director may
7 deem necessary. The licensee shall pay to the [~~commissioner~~
8 director for such annual examination a fee of two hundred
9 dollars (\$200).

10 B. Within a reasonable time after the completion of
11 an examination of a licensed office, the director shall mail to
12 the licensee a copy of the report of the examination, together
13 with any comments, exceptions, objections or criticisms of the
14 director concerning the conduct of the licensee and the
15 operation of the licensed office.

16 [~~B.~~] C. For the purpose of discovering violations
17 of the New Mexico Small Loan Act of 1955 or of securing
18 information lawfully required under that act, the director or
19 [~~his-duly~~] the director's authorized representative may at any
20 time investigate the business and examine the books, accounts,
21 papers and records used therein, including income tax returns
22 or other reports filed in the office of the director of the
23 revenue processing division of the taxation and revenue
24 department of:

25 (1) any licensee;

1 (2) any other person engaged in the business
2 described in Subsection A of Section 58-15-3 NMSA 1978 or
3 participating in such business as principal, agent, broker or
4 otherwise; and

5 (3) any person whom the director has
6 reasonable cause to believe is violating any provision of [~~that~~
7 ~~act~~] the New Mexico Small Loan Act of 1955, whether the person
8 claims to be within the authority or beyond the scope of that
9 act.

10 D. For the purposes of this section, [~~any~~] a person
11 who advertises, solicits or [~~holds himself out~~] makes any
12 representation as being willing to make loan transactions in
13 any amount, except persons, financial institutions or lending
14 agencies operating under charters or licenses issued by [~~any~~] a
15 state or federal agency or under any special statute, shall be
16 subject to investigation under the New Mexico Small Loan Act of
17 1955 and shall be presumed to be engaged in the business
18 described in Subsection A of Section 58-15-3 NMSA 1978 as to
19 any loans of two thousand five hundred dollars (\$2,500) or
20 less.

21 [~~G.~~] E. To facilitate the examinations and
22 investigations by the director and fully disclose the
23 operations and methods of operation of each licensed office,
24 the licensee shall, in each licensed office, keep on file as
25 part of the records of the office all office manuals,

.163454.5GR

1 communications or directives containing statements of loan
2 policy to office managers and employees. If the licensee is an
3 individual, corporation, trust or association, the licensee
4 shall keep in at least one office for information of the
5 director a record of the several individuals, firms,
6 beneficiaries of any trust and corporations deriving or
7 receiving any part of the benefits, net income or profits from
8 the operation of the licensee within New Mexico.

9 [D-] F. For the purposes of this section, the
10 director or [~~his duty~~] the director's authorized representative
11 shall have and be given free access to the offices and places
12 of business, files, safes and vaults of all licensees and shall
13 have authority to require the attendance of any person and to
14 examine [~~him~~] the person under oath relative to such loans or
15 business or to the subject matter of any examination,
16 investigation or hearing as provided in the New Mexico Small
17 Loan Act of 1955. Notices to appear before the director for
18 examination under oath may be served by registered mail. If
19 the party notified to appear is the licensee, any person named
20 on the face of the license being investigated or any agent,
21 employee or manager participating in the licensee's business
22 and [~~he~~] the party fails to appear for examination or refuses
23 to answer questions submitted, the director may, forthwith and
24 without further notice to the licensee, suspend the license
25 involved pending compliance with the notice. Upon failure of

1 any other person to appear or to answer questions, the director
2 may apply to and invoke the aid of any district court of New
3 Mexico in compelling the attendance and testimony of any such
4 person and the production of books, records, written
5 instruments and documents relating to the business of the
6 licensee. ~~[Any]~~ The district court whose aid is so invoked by
7 the director may, in case of contumacy or refusal to obey any
8 order of the district court issued to compel the attendance of
9 the person or the production of books, records, written
10 instruments and documents, punish the person as for contempt of
11 court.

12 ~~[F.]~~ G. The director shall prescribe rules of
13 procedure for all hearings, examinations or investigations
14 provided for in the New Mexico Small Loan Act of 1955. The
15 director is not bound by the usual common law or statutory
16 rules of evidence or by any technical or formal rules of
17 procedure or pleading and specification of charges other than
18 as specifically provided in the New Mexico Small Loan Act of
19 1955 but may conduct hearings, examinations and investigations
20 in the manner best calculated to ascertain the substantial
21 rights of the parties interested.

22 ~~[F.]~~ H. The director has the power to administer
23 oaths, certify official acts and records of ~~[his]~~ the
24 director's office, issue subpoenas for witnesses in the name of
25 and under the seal of ~~[his]~~ the director's office and compel

1 the production of papers, books, accounts and documents. [~~He~~]
2 The director shall issue subpoenas at the instance of any party
3 to a hearing before the division upon payment of a fee of two
4 dollars [~~and~~] fifty cents (\$2.50) for each subpoena so issued.

5 [~~G.~~] I. Depositions may be taken with or without a
6 commission, and written interrogatories may be submitted in the
7 same manner and on the same grounds provided by law for the
8 taking of depositions or submission of written interrogatories
9 in civil actions pending in the district courts of this state.

10 [~~H.~~] J. Each witness who appears before the
11 director by [~~his~~] the director's order shall receive the fees
12 and mileage provided for witnesses in civil actions in the
13 district court. Fees and mileage shall be paid by the state,
14 but no witness subpoenaed at the instance of parties other than
15 the director is entitled to compensation from the state for
16 attendance or mileage unless the director certifies that [~~his~~]
17 the witness' testimony is material.

18 [~~I.~~] K. Whenever the director has reasonable cause
19 to believe that [~~any~~] a person is violating [~~any~~] a provision
20 of the New Mexico Small Loan Act of 1955, [~~he~~] the director
21 may, in addition to all actions provided for in that act and
22 without prejudice thereto, enter an order requiring the person
23 to desist or to refrain from the violation. An action may be
24 brought on the relation of the attorney general and the
25 director to enjoin the person from engaging in or continuing

1 the violation or from doing any act in furtherance of the
2 violation. In any such action, an order or judgment may be
3 entered awarding a preliminary or final injunction as may be
4 deemed proper. In addition to all other means provided by law
5 for the enforcement of a temporary restraining order, temporary
6 injunction or final injunction, the court in which such action
7 is brought shall have power and jurisdiction to impound and to
8 appoint a receiver for the property and business of the
9 defendants, including books, papers, documents and records
10 pertaining thereto or so much thereof as the court may deem
11 reasonably necessary to prevent further violations of the New
12 Mexico Small Loan Act of 1955 through or by means of the use of
13 the property and business. The receiver, when appointed and
14 qualified, shall have powers and duties as to custody,
15 collection, administration, winding up and liquidation of the
16 property and business as are from time to time conferred upon
17 ~~[him]~~ the receiver by the court."

18 Section 5. Section 58-15-10 NMSA 1978 (being Laws 1955,
19 Chapter 128, Section 10, as amended) is amended to read:

20 "58-15-10. BOOKS AND RECORDS--ANNUAL REPORTS--ADDITIONAL
21 INFORMATION.--

22 A. Each licensee shall keep and use in ~~[his]~~ the
23 business such books, accounts and records in accordance with
24 sound accounting practices ~~[as in the director's opinion]~~ that
25 will enable ~~[him]~~ the director to determine whether the

1 licensee is complying with the provisions of the New Mexico
2 Small Loan Act of 1955 and with the orders and regulations
3 lawfully made by the director ~~[under]~~ pursuant to the
4 provisions of that act. Each licensee shall preserve the
5 books, accounts and records for at least two years after making
6 the final entry on ~~[any]~~ a loan recorded therein.

7 B. Each licensee shall, annually on or before March
8 31, file a report with the director giving such relevant
9 information as ~~[he]~~ the director may reasonably require
10 concerning the business and operations during the preceding
11 calendar year for each licensed place of business conducted by
12 the licensee within the state pursuant to the provisions of the
13 New Mexico Small Loan Act of 1955. The report shall be made
14 under oath and shall be in the form prescribed by the director.
15 A summary of the reports shall be included in the published
16 annual report of the director.

17 C. At the time of filing each annual report, at the
18 time of the annual examination or at any other time when ~~[any]~~
19 a license is in effect, the director may, upon written notice,
20 require ~~[any]~~ a licensee to furnish within twenty days in
21 writing, and under oath if so specified by any written notice
22 issued and served by the director upon the licensee, ~~[any and~~
23 ~~all]~~ additional information as to ownership of any office;
24 operation of any office; books, records, files and papers; and
25 affiliation or relationship with any other person, firm, trust,

1 association or corporation as, in the opinion of the director,
2 may be helpful ~~[to him]~~ in the discharge of ~~[his]~~ the
3 director's official duties.

4 D. False or misleading information willfully
5 furnished to the director by ~~[any]~~ a licensee in ~~[any]~~ an
6 annual report or pursuant to ~~[any]~~ a notice or requirement of
7 the director is sufficient ~~[ground]~~ grounds for suspension and
8 revocation of license in accordance with the procedures for
9 suspension or revocation of license set forth in the New Mexico
10 Small Loan Act of 1955."

11 Section 6. Section 58-15-12 NMSA 1978 (being Laws 1955,
12 Chapter 128, Section 12, as amended) is amended to read:

13 "58-15-12. ADVERTISING ~~[SCHEDULE OF CHARGES]~~.--~~[A. No]~~ A
14 licensee or other person subject to the New Mexico Small Loan
15 Act of 1955 shall not advertise, display, distribute or
16 broadcast or cause or permit to be advertised, displayed,
17 distributed or broadcast in any manner whatsoever ~~[any]~~ a
18 false, misleading or deceptive statement or representation with
19 regard to the charges, terms or conditions for loans in the
20 amount or of the value of two thousand five hundred dollars
21 (\$2,500) or less. The director may require that charges or
22 rates of charge, if stated by a licensee, be stated fully and
23 clearly in such manner as ~~[he may deem]~~ the director deems
24 necessary to prevent misunderstanding ~~[thereof]~~ by prospective
25 borrowers. The director may permit or require licensees to

.163454.5GR

1 refer in their advertising to the fact that their business is
2 under state supervision, subject to conditions imposed by [him]
3 the director to prevent [any] erroneous impressions as to the
4 scope or degree of protection provided by the New Mexico Small
5 Loan Act of 1955.

6 ~~[B. Each licensee shall display in each licensed~~
7 ~~place of business, in a place where it will be readily visible~~
8 ~~by borrowers, a full and accurate schedule of the rates of~~
9 ~~charges upon all classes of loans currently to be made by him,~~
10 ~~stated on a percent per annum basis and also on a percent per~~
11 ~~month basis.]"~~

12 Section 7. Section 58-15-14.1 NMSA 1978 (being Laws 1983,
13 Chapter 95, Section 2) is amended to read:

14 "58-15-14.1. CHARGES--METHOD OF COMPUTATION.--[Charges
15 on] The simple interest method shall be used for loans made
16 under the New Mexico Small Loan Act of 1955. Interest charges
17 shall not be paid, deducted or received in advance. [Such]
18 Interest charges shall not be compounded. However, if part or
19 all of the consideration for a loan contract is the unpaid
20 principal balance of a prior loan, then the principal amount
21 payable under the loan contract may include any unpaid charges
22 [which] that have accrued within sixty days on the prior loan.
23 Such charges shall be computed on the basis of the number of
24 days actually elapsed. ~~[For the purpose of computing charges,~~
25 ~~whether at the maximum rate or less, a month shall be any~~

.163454.5GR

1 ~~period of thirty consecutive days and the rate of charge for~~
2 ~~each day shall be one-thirtieth of the monthly rate.]"~~

3 Section 8. Section 58-15-17 NMSA 1978 (being Laws 1955,
4 Chapter 128, Section 15, as amended) is amended to read:

5 "58-15-17. REQUIREMENTS FOR MAKING AND PAYING OF LOANS--
6 INCOMPLETE INSTRUMENTS--LIMITATIONS ON CHARGES AFTER JUDGMENT
7 AND INTEREST.--

8 A. Every licensee shall:

9 (1) at the time ~~[any]~~ a loan is made within
10 the provisions of the New Mexico Small Loan Act of 1955,
11 deliver to the borrower or, if there are two or more borrowers
12 on the same obligation, to one of them, a statement in English
13 or Spanish as requested by the borrower, on which shall be
14 printed a copy of Section 58-15-14.1 NMSA 1978 ~~[disclosing]~~ and
15 that discloses in clear and distinct terms:

- 16 (a) the amount of the loan;
17 (b) the date the loan was made;
18 (c) a schedule or a description of the
19 payments;
20 (d) the type of the security, if any,
21 for the loan;
22 (e) the name and address of the licensed
23 office;
24 (f) the name of the person primarily
25 obligated for the loan;

.163454.5GR

1 (g) the amount of principal;
2 (h) the agreed rate of charge stated on
3 ~~[a percent per month and]~~ a percent per year basis and the
4 amount in dollars and cents; ~~[and]~~

5 (i) all other disclosures required
6 pursuant to state and federal law; and

7 (j) other items allowable pursuant to
8 that act, so stated as to clearly show the allocation of each
9 item included;

10 (2) for each payment made on account of any
11 such loan, give to the person making it a plain and complete
12 receipt specifying the date and amount of the payment, the
13 amount applied to interest and principal and the balance
14 unpaid. When payment is made in any other manner than by the
15 borrower in person, by an agent of the borrower or by check or
16 money order, the licensee shall mail the receipt to the
17 borrower's last known address or hold the receipt for delivery
18 upon request of the borrower. A copy of all receipts shall be
19 kept on file in the office of the licensee as a part of ~~[his]~~
20 the licensee's records; and

21 (3) upon payment of the loan in full, mark
22 plainly every note and promise to pay signed by any obligor
23 with the word "paid" or "canceled" and promptly file or record
24 a release of any mortgage if the mortgage has been recorded,
25 restore any pledge and cancel and return any note and any

1 assignment given to the licensee. A licensee may mark and
2 return a copy of the note, promise to pay or any assignment if
3 the copy accurately reproduces the complete original.

4 B. ~~[No]~~ A licensee shall not take ~~[any]~~ a note or
5 promise to pay that does not disclose the amount of the loan, a
6 schedule of payments, or a description thereof, and the agreed
7 charge or rate of charge or any instrument in which blanks are
8 left to be filled in after execution.

9 C. If judgment is obtained against ~~[any]~~ a party
10 ~~[or any]~~ on a loan made ~~[under]~~ pursuant to the provisions of
11 the New Mexico Small Loan Act of 1955, neither the judgment nor
12 the loan shall carry, from the date of the judgment, ~~[any]~~
13 charges against ~~[any]~~ a party to the loan other than ~~[court]~~
14 costs, ~~[attorneys']~~ attorney fees and post-judgment interest
15 ~~[on the amount of the judgment at ten percent a year]~~ as
16 provided by law.

17 D. Any loan made under the provisions of the New
18 Mexico Small Loan Act of 1955 that is filed and approved as a
19 claim in any bankruptcy proceeding shall, from a date ninety
20 days subsequent to the date of adjudication, bear interest at
21 the rate of ten percent a year only. This limitation shall not
22 apply when the bankrupt is not discharged in bankruptcy or to
23 any obligation not dischargeable under the provisions of the
24 Bankruptcy Act presently in force or as hereafter amended.

25 E. No loan made under the provisions of the New

1 Mexico Small Loan Act of 1955 shall bear interest after ninety
2 days from the date of the death of the borrower in excess of a
3 rate of ten percent a year on the unpaid principal balance of
4 the loan.

5 F. No loan made under the provisions of the New
6 Mexico Small Loan Act of 1955 shall bear interest after twelve
7 months from the date of maturity of the loan in excess of ten
8 percent a year upon the unpaid principal balance of the loan."

9 Section 9. Section 58-15-20 NMSA 1978 (being Laws 1955,
10 Chapter 128, Section 18) is amended to read:

11 "58-15-20. FEES AND COSTS.--

12 [~~(a)~~ ~~FILING OR RECORDING FEES~~] A. Notwithstanding
13 any provision of [~~this Act~~] the New Mexico Small Loan Act of
14 1955, lawful fees, if any, actually and necessarily paid out by
15 the licensee to [~~any~~] a public officer for the filing,
16 recording or releasing in [~~any~~] a public office [~~any~~] of an
17 instrument securing the loan may be charged to the borrower.

18 [~~(b)~~ ~~ATTORNEY FEES~~] B. Notwithstanding any
19 provision in [~~any~~] a note or other loan contract taken or
20 received [~~under this act~~] pursuant to the provisions of the New
21 Mexico Small Loan Act of 1955, attorney fees shall not be
22 charged or collected except [~~where such~~] when the note or other
23 contract has been [~~turned~~] submitted in good faith to an
24 attorney for collection and after diligent and good faith
25 effort to collect [~~has failed~~] on the part of the licensee has

1 failed.

2 [~~(c)~~ ~~COURTS COSTS~~ ~~Where suit is filed in any court~~
3 ~~of competent jurisdiction, court costs shall be collectable in~~
4 ~~accordance with the laws of New Mexico applicable thereto.~~

5 ~~(d) NOTARY FEES PROHIBITED]~~ C. Notary fees
6 incident to the taking of ~~[any]~~ a lien to secure a small loan
7 or releasing such a lien shall not be charged or collected by
8 ~~[any]~~ a licensee, ~~[nor by any]~~ an officer, agent or employee of
9 a licensee ~~[nor by]~~ or anyone within ~~[any]~~ an office, room or
10 place of business in which a small loan office is conducted.

11 D. Delinquency fees shall not exceed five cents
12 (\$.05) for each one dollar (\$1.00) of each installment more
13 than ten days in arrears; provided that the total of
14 delinquency charges on any such installment shall not exceed
15 ten dollars (\$10.00) and that only one delinquency charge shall
16 be made on any one installment regardless of the period during
17 which the installment remains unpaid."

18 Section 10. Section 58-15-23 NMSA 1978 (being Laws 1955,
19 Chapter 128, Section 21) is amended to read:

20 "58-15-23. VIOLATION OF GENERAL USURY LAWS.--The ~~[wilful]~~
21 violation by ~~[any]~~ a licensee or by ~~[any]~~ an officer, manager,
22 director, trustee, executive or employee directly engaged in
23 operating a small loan office under the provisions of ~~[this~~
24 ~~Act]~~ the New Mexico Small Loan Act of 1955 of any usury statute
25 of this state within ~~[any]~~ an office, room or place of business

.163454.5GR

1 in which the making of loans as a licensee is solicited or
2 engaged or in association or conjunction therewith [~~shall be~~
3 ~~ground~~] is grounds for suspension and revocation of license in
4 accordance with the applicable procedures [~~applicable thereto~~
5 ~~as~~] set forth [~~herein~~] in that act."

6 Section 11. Section 58-15-30 NMSA 1978 (being Laws 1955,
7 Chapter 128, Section 28) is amended to read:

8 "58-15-30. PENALTIES--GENERAL.--Any person,
9 copartnership, trust, association or corporation and the
10 several members, beneficiaries, officers, directors, agents and
11 employees thereof who [~~shall~~] violate or participate in the
12 violation of any provision of the [~~sections of this Act shall~~
13 ~~be~~] New Mexico Small Loan Act of 1955 are guilty of a
14 misdemeanor and upon conviction [~~thereof~~] shall be [~~punishable~~]
15 punished by a fine of not less than [~~one hundred (\$100.00)~~
16 ~~dollars and not more than three hundred (\$300.00) dollars~~] five
17 hundred dollars (\$500) or more than one thousand dollars
18 (\$1,000) or by imprisonment of not more than [~~ninety (90) days~~]
19 six months or [~~by~~] both [~~such fine and imprisonment~~] in the
20 discretion of the court."

21 Section 12. A new section of the New Mexico Small Loan
22 Act of 1955, Section 58-15-32 NMSA 1978, is enacted to read:

23 "58-15-32. [NEW MATERIAL] REQUIREMENTS FOR PAYDAY
24 LOANS.--

25 A. No licensee shall make a payday loan to a

1 consumer if the total principal amount of the loan and fees,
2 when combined with the principal amount and fees of all of the
3 consumer's other outstanding payday loan products, exceeds
4 twenty-five percent of the consumer's gross monthly income.

5 B. Without affecting the rights of a consumer to
6 prepay a payday loan product at any time without additional
7 cost or penalty:

8 (1) no payday loan or renewed payday loan
9 shall have a stated maturity greater than thirty-five days;

10 (2) no payday loan or renewed payday loan
11 shall have a stated minimum term less than fourteen days; and

12 (3) there shall be a scheduled pay date for
13 the consumer within the term of the payday loan or renewed
14 payday loan.

15 C. A payday loan agreement and an agreement to
16 renew a payday loan shall include a provision granting the
17 consumer the right to rescind the transaction by returning in
18 cash, or through certified funds, one hundred percent of the
19 amount advanced by a licensee for a payday loan or renewed
20 payday loan no later than 5:00 p.m. on the first day of
21 business conducted by the licensee following the execution of
22 the payday loan or renewed payday loan agreement. If a
23 consumer exercises the right of rescission pursuant to this
24 subsection, no fee for the rescinded transaction shall be
25 charged to the consumer and the licensee shall not charge or

1 impose on the consumer a fee for exercising the right of
2 rescission pursuant to this subsection. If this subsection is
3 applicable, any fee collected by a licensee shall be returned
4 in full to the consumer.

5 D. Any payday loan made within seven days of the
6 maturity date of a prior payday loan or renewed payday loan, by
7 the same licensee, shall automatically be treated as either:

8 (1) a renewed payday loan if the payday loan
9 has not been previously renewed; or

10 (2) a payment plan pursuant to Section
11 58-15-36 NMSA 1978 if the payday loan has been renewed.

12 E. A consumer shall be permitted to make payments
13 in any amount on a payday loan product at any time before
14 maturity without additional fees. A payment received by a
15 licensee shall first be applied to administrative fees owed
16 with any remaining amount to be applied to principal.

17 F. After each payment is made, in full or in part,
18 on a payday loan product, the licensee shall give to the person
19 making the payment a signed, dated receipt showing the amount
20 paid; the amount credited toward administrative fees and
21 principal; and the balance due on the loan.

22 G. A check written by a consumer for a payday loan
23 product shall be payable to the order of the licensee.

24 H. Prior to the consummation of a payday loan, the
25 licensee shall provide the consumer, or each consumer if there

1 is more than one, with copies of the payday loan product
2 agreement in English, Spanish or other language as determined
3 by the director. Consumers shall have the option to decide
4 which language version of the agreement they wish to receive.

5 I. A payday loan product agreement shall not be
6 renewed, refinanced or extended without the written consent of
7 the consumer.

8 J. Licensees making payday loans shall provide the
9 consumer with an information brochure in English, Spanish or
10 other language as determined by the director. Consumers shall
11 have the option to decide which language version of the
12 brochure they wish to receive.

13 K. The disclosure of the credit terms of a payday
14 loan product shall be according to and governed by the
15 requirements of 12 CFR 226, known as "Regulation Z". The
16 definitions and requirements of that regulation and commentary
17 shall apply to payday loan products as if those provisions are
18 fully set out in this section.

19 L. A licensee shall collect on payday loan products
20 in default in a professional, fair and lawful manner. A
21 licensee that complies with the requirements and prohibitions
22 set forth in 15 U.S.C. 1692c-1692f of the federal Fair Debt
23 Collection Practices Act shall be deemed to have operated in a
24 professional, fair and lawful manner."

25 Section 13. A new section of the New Mexico Small Loan

.163454.5GR

1 Act of 1955, Section 58-15-33 NMSA 1978, is enacted to read:

2 "58-15-33. [NEW MATERIAL] PAYDAY LOAN PRODUCTS--PERMITTED
3 CHARGES.--The following provisions apply only to payday loan
4 products:

5 A. a licensee shall not charge or receive from a
6 consumer, directly or indirectly, fees or charges except as
7 provided in this section;

8 B. upon the execution of a new payday loan, the
9 licensee may impose an administrative fee of not more than
10 fifteen dollars fifty cents (\$15.50) per one hundred dollars
11 (\$100) of principal, which fee is fully earned and
12 nonrefundable at the time a payday loan agreement is executed
13 and payable in full at the end of the term of the payday loan
14 or upon prepayment of the payday loan unless a payday loan is
15 rescinded pursuant to Subsection C of Section 58-15-32 NMSA
16 1978;

17 C. upon the execution of an agreement to renew a
18 payday loan, the licensee may impose an administrative fee of
19 fifteen dollars fifty cents (\$15.50) per one hundred dollars
20 (\$100) of principal, which fee is fully earned and
21 nonrefundable at the time a renewed payday loan agreement is
22 executed and payable in full at the end of the term of the
23 renewed payday loan or upon prepayment of a renewed payday loan
24 unless a renewed payday loan is rescinded pursuant to
25 Subsection C of Section 58-15-32 NMSA 1978;

.163454.5GR

1 D. a licensee shall not charge a consumer interest
2 on the outstanding principal owed on a payday loan product; and

3 E. if there are insufficient funds to pay a check
4 or other type of debit on the date of presentment by the
5 licensee, a licensee may charge a borrower a fee not to exceed
6 fifteen dollars (\$15.00). Only one fee may be collected by a
7 licensee on a check or debit authorization. A check or debit
8 authorization request shall not be presented to a financial
9 institution by a licensee for payment more than one time unless
10 the consumer agrees in writing, after a check or other type of
11 debit has been dishonored, to one additional presentment or
12 deposit."

13 Section 14. A new section of the New Mexico Small Loan
14 Act of 1955, Section 58-15-34 NMSA 1978, is enacted to read:

15 "58-15-34. [NEW MATERIAL] PAYDAY LOAN PRODUCTS--
16 PROHIBITED ACTS.--A licensee shall not:

17 A. threaten or intimidate a consumer or threaten to
18 use or request the use of criminal process in this or another
19 state to collect on a payday loan product;

20 B. use a device or agreement that would have the
21 effect of charging or collecting more fees, charges or interest
22 than that allowed by law by entering into a different type of
23 transaction with the consumer that has that effect;

24 C. require a consumer to enter into a new payday
25 loan to pay an existing payday loan in whole or in part when

.163454.5GR

1 the existing loan can be renewed or is eligible for a payment
2 plan pursuant to Section 58-15-36 NMSA 1978;

3 D. charge a fee to cash a check representing the
4 proceeds of a payday loan product;

5 E. charge a late fee or delinquency charge if a
6 consumer fails to repay a payday loan product on time;

7 F. assign or attempt to assign a consumer's
8 personal check to a third party unless for collection purposes;

9 G. use or attempt to use the check written by the
10 consumer for a payday loan product as collateral for purposes
11 other than repaying that payday loan product;

12 H. require a consumer to provide multiple checks or
13 multiple debt authorizations;

14 I. accept collateral for a payday loan product
15 other than the consumer's check or debit authorization or
16 require a consumer to provide a guaranty from another person
17 for a payday loan product;

18 J. include any of the following provisions in a
19 payday loan product agreement:

20 (1) a hold harmless clause;
21 (2) a confession of judgment clause or power
22 of attorney;

23 (3) an assignment of or order for payment of
24 wages or other compensation for services;

25 (4) a waiver of claims for punitive damages;

.163454.5GR

1 (5) a provision in which the consumer agrees
2 not to assert a claim or defense arising out of the contract;

3 (6) a waiver of a provision of the New Mexico
4 Small Loan Act of 1955;

5 (7) a waiver of the right to renew a payday
6 loan or enter into a payment plan pursuant to Section 58-15-36
7 NMSA 1978; or

8 (8) a waiver of any rights secured by New
9 Mexico law;

10 K. make a payday loan product contingent on the
11 purchase of insurance or other goods or services;

12 L. take a check, instrument or form in which blanks
13 are left to be filled in after execution of the check,
14 instrument or form;

15 M. offer, arrange, act as an agent for or assist a
16 third party in any way in the making of a payday loan product
17 unless the third party complies with all applicable federal and
18 state laws and regulations;

19 N. knowingly enter into a payday loan product with
20 a consumer who lacks the capacity to consent;

21 O. use an agency agreement or partnership agreement
22 as a scheme or contrivance to circumvent the application of the
23 provisions of the New Mexico Small Loan Act of 1955 to a
24 consumer's payday loan product. For the purposes of this
25 subsection:

.163454.5GR

1 (1) "agency agreement" means any agreement
2 between in-state entities and a banking corporation, savings
3 and loan association or credit union operating under the laws
4 of the United States or of any state whereby the in-state agent
5 holds a predominant economic interest in the revenues generated
6 by a payday loan or renewed payday loan made to New Mexico
7 residents; and

8 (2) "partnership agreement" means any
9 agreement between in-state entities and a banking corporation,
10 savings and loan association or credit union operating under
11 the laws of the United States or of any state whereby the
12 in-state partner holds a predominant economic interest in the
13 revenues generated by a payday loan or renewed payday loan made
14 to New Mexico residents; or

15 P. finance or refinance all or any portion of any
16 fees permitted by Section 58-15-33 NMSA 1978."

17 Section 15. A new section of the New Mexico Small Loan
18 Act of 1955, Section 58-15-35 NMSA 1978, is enacted to read:

19 "58-15-35. [NEW MATERIAL] RENEWED PAYDAY LOANS.--A
20 consumer may renew a payday loan one time at the discretion of
21 the licensee, and the term of the renewed payday loan shall
22 include a scheduled pay date for the consumer. To be eligible
23 to renew a payday loan, a consumer must first pay the
24 administrative fee for the payday loan pursuant to Section
25 58-15-33 NMSA 1978."

1 Section 16. A new section of the New Mexico Small Loan
2 Act of 1955, Section 58-15-36 NMSA 1978, is enacted to read:

3 "58-15-36. [NEW MATERIAL] PAYDAY LOANS--PAYMENT PLANS.--

4 A. During the term of a payday loan that has been
5 renewed, if the renewed payday loan has not been repaid in
6 full, the licensee must offer the consumer the opportunity to
7 enter into an unsecured payment plan. The consumer may elect,
8 and a licensee shall permit, entry into a payment plan for the
9 unpaid principal balance of the renewed payday loan.

10 B. To be eligible to enter into a payment plan, a
11 consumer must first pay the administrative fee for the renewed
12 payday loan pursuant to Section 58-15-33 NMSA 1978. No fees,
13 charges or interest may be charged for a payment plan.

14 C. A payment plan shall provide for:

15 (1) a minimum of ninety-eight days for the
16 repayment of the unpaid principal balance of a renewed payday
17 loan; and

18 (2) relatively equal installment payments
19 based upon the consumer's schedule of pay periods."

20 Section 17. A new section of the New Mexico Small Loan
21 Act of 1955, Section 58-15-37 NMSA 1978, is enacted to read:

22 "58-15-37. [NEW MATERIAL] PAYDAY LOANS--WAITING PERIOD.--

23 A. A licensee shall not make a payday loan to a
24 consumer qualifying pursuant to the provisions of Subsection B
25 of this section until at least seven calendar days have passed

.163454.5GR

1 since the consumer completed all payment obligations pursuant
2 to all of the consumer's outstanding payday loan products.

3 B. The provisions of Subsection A of this section
4 shall apply to a consumer who within the prior twelve months:

5 (1) has had payment obligations under one or
6 more payday loan products for sixty or more consecutive days;
7 or

8 (2) has had payment obligations under one or
9 more payday loan products for ninety or more days in the
10 aggregate."

11 Section 18. A new section of the New Mexico Small Loan
12 Act of 1955, Section 58-15-38 NMSA 1978, is enacted to read:

13 "58-15-38. [NEW MATERIAL] PAYDAY LOANS--VERIFICATION.--

14 A. Before entering into a payday loan agreement
15 with a consumer, a licensee must use a commercially reasonable
16 method of verification to verify that the proposed loan
17 agreement is permissible under the provisions of the New Mexico
18 Small Loan Act of 1955.

19 B. No later than November 1, 2007, the director
20 shall certify that one or more consumer reporting service
21 databases are commercially reasonable methods of verification.
22 The list of consumer reporting services that the director has
23 certified as providing commercially reasonable methods of
24 verification shall be posted on the division's web site and
25 shall be mailed to each licensee by first class mail at the

.163454.5GR

1 address of record as shown on the division's licensing files.

2 C. Each licensee who provides payday loan products
3 shall comply with Subsection A of this section no later than
4 November 30, 2007.

5 D. A consumer seeking a payday loan may make a
6 direct inquiry to the consumer reporting service to request a
7 more detailed explanation of the basis for a consumer reporting
8 service's determination that the consumer is ineligible for a
9 new payday loan, and the consumer reporting service shall
10 provide a reasonable response to the consumer.

11 E. In certifying a commercially reasonable method
12 of verification, the director shall ensure the certified
13 database:

14 (1) provides real-time access through an
15 internet connection or, if real-time access through an internet
16 connection becomes unavailable due to technical problems
17 incurred by the consumer reporting service, through alternative
18 verification mechanisms, including verification by telephone;

19 (2) is accessible to the division and to
20 licensees in real time in order to ensure compliance with the
21 New Mexico Small Loan Act of 1955 regardless of where the
22 consumer requests a payday loan in New Mexico and in order to
23 provide any other information the director deems necessary;

24 (3) requires licensees to input whatever
25 information is required by the New Mexico Small Loan Act of

.163454.5GR

1 1955;

2 (4) contains a real-time regulator interface
3 that allows the division access to the consumer reporting
4 service database for the required monitoring and reporting
5 function, including the ability to determine consumer
6 eligibility and to generate reports for licensee examinations,
7 regulatory reporting and program monitoring;

8 (5) provides licensees with no more than a
9 statement that a consumer is eligible or ineligible for a new
10 payday loan and the reason for the determination;

11 (6) provides adequate safeguards to ensure
12 that consumer information contained in the database is kept
13 strictly confidential;

14 (7) does not allow the licensee to enter into
15 a payday loan that would be in violation of the New Mexico
16 Small Loan Act of 1955;

17 (8) ensures that information submitted to the
18 certified database is kept confidential and shall not be
19 released or otherwise made available to the public;

20 (9) demonstrates a working system to the
21 division prior to the certification of the database; and

22 (10) is generated by a registered consumer
23 reporting service that is subject to the applicable rules and
24 regulations applied by the federal trade commission under the
25 Fair Credit Reporting Act.

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1 F. A licensee shall update the certified database
2 by inputting all information required under Paragraph (3) of
3 Subsection E of this section at the time that:

- 4 (1) a payday loan is made;
5 (2) a payday loan is renewed;
6 (3) a consumer elects to enter into a
7 repayment plan;
8 (4) a consumer's payday loan is paid in full;
9 or
10 (5) a licensee determines a payday loan is in
11 default.

12 G. A licensee may rely on the information contained
13 in the certified database as accurate and is not subject to any
14 penalty or liability as a result of relying on inaccurate
15 information contained in the database.

16 H. In determining whether a credit reporting
17 service should be certified as a commercially reasonable method
18 of verification, the director will consider whether such credit
19 reporting service is adequately capitalized, demonstrates the
20 resources and the ability to perform the services required
21 pursuant to this section and has appropriate surety to ensure
22 performance of its obligations pursuant to this section and to
23 reasonably protect claimants in the event that actions or
24 inactions on the part of the credit reporting service results
25 in damages to licensees or consumers."

1 Section 19. A new section of the New Mexico Small Loan
2 Act of 1955, Section 58-15-39 NMSA 1978, is enacted to read:

3 "58-15-39. [NEW MATERIAL] REQUIRED DISCLOSURES WHEN
4 MAKING PAYDAY LOANS.--A licensee making payday loans or renewed
5 payday loans shall provide a notice immediately above the
6 consumer's signature on each payday loan agreement or renewed
7 payday loan agreement in at least twelve-point bold type using
8 the following language:

9 "(1) A payday loan is not intended to meet long-
10 term financial needs.

11 (2) You should use a payday loan only to meet
12 short-term cash needs.

13 (3) You will be required to pay additional
14 administrative fees if you renew the payday loan rather than
15 pay the debt in full when due.

16 (4) A payday loan is a high-cost loan. You should
17 consider what other lower-cost loans are available to you.

18 (5) You have the right to renew your payday loan
19 one time at the discretion of the lender. If you renew a
20 payday loan and cannot fully repay that loan when due, you have
21 a right to enter into a payment plan requiring payment within a
22 minimum of ninety-eight days, in relatively equal installments,
23 based upon your scheduled pay periods. If you enter into a
24 payment plan, you will not have to pay an additional
25 administrative fee or interest on the outstanding principal

.163454.5GR

1 balance.

2 (6) If within the prior twelve months you have had
3 payment obligations under a payday loan, renewed payday loan or
4 payment plan for sixty consecutive days or ninety days in the
5 aggregate, you may not enter into a new payday loan until after
6 seven days have passed since you completed all payment
7 obligations under all of your outstanding payday loans, renewed
8 payday loans or payment plans."."

9 Section 20. A new section of the New Mexico Small Loan
10 Act of 1955, Section 58-15-40 NMSA 1978, is enacted to read:

11 "58-15-40. [NEW MATERIAL] DUTIES OF DIVISION.--

12 A. The division shall:

13 (1) maintain a list of licensees, which list
14 shall be available to interested persons and the public; and

15 (2) establish a complaint process whereby an
16 aggrieved consumer or other person may file a complaint against
17 a licensee.

18 B. The division shall annually provide a report to
19 the legislature detailing statistics, including data adequate
20 to obtain an accurate understanding of the practices,
21 demographics and legal compliance of all licensees licensed in
22 the state. The division shall compile an annual report by
23 October 1 of each year containing, at a minimum, data regarding
24 all payday loan products entered into in the preceding calendar
25 year on an aggregate basis. Annual reports shall be made

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1 available to interested parties and the general public.
2 Consistent with state law, the report should include, at a
3 minimum, nonidentifying consumer data from the preceding year,
4 including:

5 (1) the total number and dollar amount of
6 payday loan products entered into in the calendar year ending
7 December 31 of the previous year;

8 (2) the total number and dollar amount of
9 payday loan products outstanding as of December 31 of the
10 previous year;

11 (3) the average annual percentage rate and the
12 average number of days of a payday loan and a renewed payday
13 loan during the calendar year ending December 31 of the
14 previous year;

15 (4) the number of payday loan products entered
16 into in the amount of one hundred dollars (\$100) or less, the
17 number of payday loan products entered into in the amount of
18 one hundred one dollars (\$101) to five hundred dollars (\$500),
19 the number of payday loan products entered into in the amount
20 of five hundred one dollars (\$501) to one thousand dollars
21 (\$1,000), the number of payday loan products entered into in
22 the amount of one thousand one dollars (\$1,001) to one thousand
23 five hundred dollars (\$1,500), the number of payday loan
24 products in the amount of one thousand five hundred dollars
25 (\$1,500) or greater and the percentage of total payday loan

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1 products entered into in each of those ranges;

2 (5) an estimate of the total dollar amount of
3 fees collected for payday loan products;

4 (6) the total number of payday loan products
5 entered into and the total dollar amount of the net charge-offs
6 or write-offs and of the net recoveries of licensees;

7 (7) the minimum, maximum and average dollar
8 amounts of payday loan products entered into in the calendar
9 year ending December 31 of the previous year;

10 (8) the average payday loan product amount,
11 average number of transactions and average aggregate payday
12 loan product amount entered into per consumer each year;

13 (9) the average number of days a consumer is
14 engaged in a payday loan product each year;

15 (10) an estimate of the average total fees
16 paid by a payday loan product consumer;

17 (11) the average number of payday loan
18 renewals per consumer;

19 (12) the number of consumers who are eligible
20 for payment plans and the number of consumers who enter into
21 payment plans pursuant to Section 58-17-36 NMSA 1978; and

22 (13) the number of consumers who are subject
23 to the restrictions of the waiting period pursuant to Section
24 58-17-37 NMSA 1978."

25 Section 21. REPEAL.--Section 58-15-15 NMSA 1978 (being

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1 Laws 1959, Chapter 201, Section 1, as amended) is repealed.

2 Section 22. SEVERABILITY.--If any part or application of
3 this act is held invalid, the remainder or its application to
4 other situations or persons shall not be affected.

5 Section 23. APPLICABILITY.--The provisions of Sections 12
6 through 20 of this act shall not apply to payday loans entered
7 into before November 1, 2007.

8 Section 24. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is November 1, 2007.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR INCREASED TAX CREDITS
PURSUANT TO THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX
CREDIT ACT; ADDING ELIGIBILITY REQUIREMENTS FOR THOSE TAX
CREDITS; INCREASING ADMINISTRATIVE COSTS THAT MAY BE CLAIMED AS
QUALIFIED EXPENDITURES FOR THE PURPOSE OF CLAIMING THE TAX
CREDITS; PROVIDING FOR COORDINATION OF EFFORTS BETWEEN NATIONAL
LABORATORIES PROVIDING SMALL BUSINESS ASSISTANCE PURSUANT TO
THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX CREDIT ACT;
PROVIDING REPORTING REQUIREMENTS FOR THOSE NATIONAL
LABORATORIES; MAKING TECHNICAL CORRECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9E-1 NMSA 1978 (being Laws 2000 (2nd
S.S.), Chapter 20, Section 1) is amended to read:

"7-9E-1. SHORT TITLE.--~~[This act]~~ Chapter 7, Article 9E

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1 NMSA 1978 may be cited as the "Laboratory Partnership with
2 Small Business Tax Credit Act".

3 Section 2. Section 7-9E-3 NMSA 1978 (being Laws 2000 (2nd
4 S.S.), Chapter 20, Section 3) is amended to read:

5 "7-9E-3. DEFINITIONS.--As used in the Laboratory
6 Partnership with Small Business Tax Credit Act:

7 A. "contractor":

8 (1) means ~~[an entity]~~ a person that:

9 (a) has the capability to provide small
10 business assistance; and

11 (b) may enter into a contract with a
12 national laboratory to provide small business assistance; and
13 ~~[is~~

14 ~~(1) an individual, estate, trust, receiver,~~
15 ~~cooperative association, club, corporation, company, firm,~~
16 ~~partnership, limited liability company, limited liability~~
17 ~~partnership, joint venture, syndicate or other entity,~~
18 ~~including any]~~

19 (2) includes:

20 (a) a gas, water or electric utility
21 owned or operated by a county, municipality or other political
22 subdivision of the state; or

23 ~~[(2) any]~~ (b) a national, federal,
24 state, Indian or other governmental unit or subdivision, or
25 ~~[any]~~ an agency, department or instrumentality of any of the

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1 foregoing;

2 B. "department" means the taxation and revenue
3 department, the secretary of taxation and revenue or ~~[any]~~ an
4 employee of the department exercising authority lawfully
5 delegated to that employee by the secretary;

6 C. "national laboratory" means a prime contractor
7 designated as a national laboratory by act of congress that is
8 operating a facility in New Mexico;

9 D. "qualified expenditure" means an expenditure by
10 a national laboratory in providing small business assistance,
11 limited to the following expenditures incurred in providing the
12 assistance:

13 (1) employee salaries ~~[and]~~, wages, fringe
14 benefits and employer payroll taxes;

15 (2) fringe benefits, employer payroll taxes
16 and other administrative costs related directly to the
17 provision of small business assistance, the total of which is
18 limited to forty-nine percent of employee salaries ~~[and]~~,
19 wages, fringe benefits and employer payroll taxes;

20 (3) in-state travel expenses, including per
21 diem and mileage at the internal revenue service standard
22 rates; and

23 (4) supplies and services of contractors
24 related to the provision of small business assistance;

25 E. "rural area" means ~~[any]~~ an area of the state

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1 ~~[other than]~~ outside of the exterior boundaries of a class A
2 county that has a net taxable value for rate-setting purposes
3 for any property tax year of more than seven billion dollars
4 (\$7,000,000,000);

5 F. "small business" means a business in New Mexico
6 that conforms to the definition of small business found in the
7 federal Small Business Act [~~(Public Law 85-536), as amended~~];
8 and

9 G. "small business assistance" means assistance
10 rendered by a national laboratory related to the transfer of
11 technology, including software [~~and~~], manufacturing, mining,
12 oil and gas, environmental, agricultural, information and solar
13 and other alternative energy source technologies. "Small
14 business assistance" [~~also~~] includes nontechnical assistance
15 related to expanding the New Mexico base of suppliers,
16 including training and mentoring individual small businesses;
17 assistance in developing business systems to meet audit,
18 reporting and quality [~~assistance~~] assurance requirements; and
19 other supplier development initiatives for individual small
20 businesses."

21 Section 3. Section 7-9E-4 NMSA 1978 (being Laws 2000 (2nd
22 S.S.), Chapter 20, Section 4) is amended to read:

23 "7-9E-4. ADMINISTRATION OF ACT.--The department shall
24 administer the Laboratory Partnership with Small Business Tax
25 Credit Act pursuant to the Tax Administration Act. The

1 department shall track credits claimed by a national laboratory
2 pursuant to the Laboratory Partnership with Small Business Tax
3 Credit Act by the specific small business assistance requested
4 and provided to each small business to ensure that credits
5 claimed are associated with a specific small business
6 assistance request to the national laboratory."

7 Section 4. Section 7-9E-5 NMSA 1978 (being Laws 2000 (2nd
8 S.S.), Chapter 20, Section 5) is amended to read:

9 "7-9E-5. ELIGIBILITY REQUIREMENTS.--A national laboratory
10 is eligible for a tax credit in an amount equal to qualified
11 expenditures if:

12 A. the small business assistance is rendered to a
13 small business located in New Mexico;

14 B. the small business assistance is completed;
15 [~~and~~]

16 C. the small business certifies to the national
17 laboratory that the small business assistance provided is not
18 otherwise available to the small business at a reasonable cost
19 through private industry;

20 D. the national laboratory mails written notice to
21 each small business to which it is providing small business
22 assistance of the option that the small business has to obtain
23 ownership of or license to tangible or intangible property
24 developed from the small business assistance;

25 E. the national laboratory requires small

1 businesses to which it is providing small business assistance
2 to acknowledge only after the small business assistance is
3 completed that the small business assistance has been rendered;
4 and

5 F. the national laboratory provides forms for small
6 business requests and for completion of small business
7 assistance that are in accordance with the Laboratory
8 Partnership with Small Business Tax Credit Act and other
9 applicable state and federal laws."

10 Section 5. Section 7-9E-7 NMSA 1978 (being Laws 2000 (2nd
11 S.S.), Chapter 20, Section 7) is amended to read:

12 "7-9E-7. TAX CREDITS--AMOUNTS.--~~[Each]~~ A tax credit
13 provided ~~[for]~~ pursuant to the Laboratory Partnership with
14 Small Business Tax Credit Act shall be in an amount equal to
15 the qualified expenditure incurred by the national laboratory
16 to provide small business assistance to a specific small
17 business, not to exceed ~~[five thousand dollars (\$5,000)]~~ ten
18 thousand dollars (\$10,000) for each small business located
19 outside of a rural area for which small business assistance is
20 rendered in a calendar year or ~~[ten thousand dollars (\$10,000)]~~
21 twenty thousand dollars (\$20,000) if the small business
22 assistance was provided to a small business located in a rural
23 area."

24 Section 6. Section 7-9E-8 NMSA 1978 (being Laws 2000 (2nd
25 S.S.), Chapter 20, Section 8) is amended to read:

1 "7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--

2 A. A national laboratory eligible for the tax
3 credit pursuant to the Laboratory Partnership with Small
4 Business Tax Credit Act may claim the amount of each tax credit
5 by crediting that amount against gross receipts taxes otherwise
6 due pursuant to the Gross Receipts and Compensating Tax Act.
7 The tax credit shall be taken on each monthly gross receipts
8 tax return filed by the laboratory against gross receipts taxes
9 due the state and shall not impact any local government tax
10 distribution. In no event shall the tax credits taken by an
11 individual national laboratory exceed ~~[one million eight~~
12 ~~hundred thousand dollars (\$1,800,000)]~~ two million four hundred
13 thousand dollars (\$2,400,000) in a given calendar year.

14 B. Tax credits claimed pursuant to the Laboratory
15 Partnership with Small Business Tax Credit Act by all national
16 laboratories in the aggregate for qualified expenditures for a
17 specific small business not located in a rural area shall not
18 exceed ten thousand dollars (\$10,000).

19 C. Tax credits claimed pursuant to the Laboratory
20 Partnership with Small Business Tax Credit Act by all national
21 laboratories in the aggregate for qualified expenditures for a
22 specific small business located in a rural area shall not
23 exceed twenty thousand dollars (\$20,000)."

24 Section 7. A new section of the Laboratory Partnership
25 with Small Business Tax Credit Act is enacted to read:

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1 "[NEW MATERIAL] COORDINATION BETWEEN NATIONAL
2 LABORATORIES.--If more than one national laboratory is eligible
3 for a tax credit pursuant to the Laboratory Partnership with
4 Small Business Tax Credit Act, a national laboratory shall not
5 file a tax credit claim pursuant to the Laboratory Partnership
6 with Small Business Tax Credit Act until:

7 A. coordination is developed between the national
8 laboratories providing small business assistance pursuant to
9 the Laboratory Partnership with Small Business Tax Credit Act
10 that generates a joint small business assistance operational
11 plan and a plan to ensure that the small business assistance
12 provided by a national laboratory suits the small business's
13 needs and challenges; and

14 B. a written copy of each plan formed pursuant to
15 this section is provided to the department."

16 Section 8. A new section of the Laboratory Partnership
17 with Small Business Tax Credit Act is enacted to read:

18 "[NEW MATERIAL] REPORTING.--

19 A. By October 15 of each year, a national
20 laboratory that has claimed a tax credit pursuant to the
21 Laboratory Partnership with Small Business Tax Credit Act in
22 the previous one-year period ending on September 30 of that
23 year shall submit an annual report in writing to the
24 department, the economic development department and an
25 appropriate legislative interim committee.

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1 B. If more than one national laboratory claims a
2 tax credit pursuant to the Laboratory Partnership with Small
3 Business Tax Credit Act in the previous one-year period ending
4 on September 30 of that year, those laboratories shall jointly
5 submit an annual report to the department, the economic
6 development department and an appropriate legislative interim
7 committee no later than October 15 following the previous one-
8 year period ending on September 30 of that year in which the
9 small business assistance was provided.

10 C. An annual report shall summarize activities
11 related to and the results of the small business assistance
12 programs that were provided by one or more national
13 laboratories and shall include:

14 (1) a summary of the program results and the
15 number of small businesses assisted in each county;

16 (2) a description of the projects involving
17 multiple small businesses;

18 (3) results of surveys of small businesses to
19 which small business assistance is provided;

20 (4) the total amount of the tax credits
21 claimed pursuant to the Laboratory Partnership with Small
22 Business Tax Credit Act for the year on which the report is
23 based; and

24 (5) an economic impact study of jobs created,
25 jobs retained, cost savings and increased sales generated by

1 small businesses for which small business assistance is
2 provided.

3 D. At any time after receipt of an annual report
4 required pursuant to this section from one or more national
5 laboratories eligible for tax credits authorized pursuant to
6 the Laboratory Partnership with Small Business Tax Credit Act,
7 the department or the economic development department may
8 provide written instructions to a national laboratory
9 identifying future improvements in the laboratory's small
10 business assistance program for which it receives that tax
11 credit."

12 Section 9. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2007.

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underscored material = new
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1 HOUSE BILL
2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**
3 INTRODUCED BY
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7 FOR THE
8 ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE
9
10 AN ACT
11 RELATING TO ECONOMIC DEVELOPMENT; AMENDING THE FAMILY
12 OPPORTUNITY ACCOUNTS ACT TO CHANGE THE NAME OF THE ACT;
13 CHANGING THE ELIGIBILITY REQUIREMENTS; MAKING APPROPRIATIONS.
14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
16 Section 1. Section 58-30-1 NMSA 1978 (being Laws 2003,
17 Chapter 362, Section 1, as amended) is amended to read:
18 "58-30-1. SHORT TITLE.--Chapter 58, Article 30 NMSA 1978
19 may be cited as the "[~~Family Opportunity~~] Individual
20 Development Accounts Act".
21 Section 2. Section 58-30-2 NMSA 1978 (being Laws 2003,
22 Chapter 362, Section 2, as amended) is amended to read:
23 "58-30-2. DEFINITIONS.--As used in the [~~Family~~
24 ~~Opportunity~~] Individual Development Accounts Act:
25 A. "account owner" means the person in whose name

1 ~~[a family opportunity]~~ an individual development account is
2 originally established;

3 B. "allowable use" means a use that complies with
4 the provisions of the ~~[Family Opportunity]~~ Individual
5 Development Accounts Act, or rules adopted pursuant to that
6 act;

7 C. "authorized financial institution" means a
8 financial institution authorized by the ~~[office]~~ division to
9 hold and manage ~~[family opportunity]~~ individual development
10 accounts and reserve accounts;

11 D. "director" means the director of the ~~[office]~~
12 division;

13 E. "division" means the local government division
14 of the department of finance and administration;

15 ~~[E.]~~ F. "earned income" means wages from
16 employment, payment in lieu of wages, disability payments,
17 tribal distributions or earnings from self-employment or
18 acquired from the provision of services, goods or property,
19 production of goods, management of property or supervision of
20 services;

21 ~~[F.]~~ G. "eligible individual" means a person who
22 meets the criteria for opening ~~[a family opportunity]~~ an
23 individual development account;

24 ~~[G. "family opportunity"]~~ H. "individual
25 development account" means an account established and

1 maintained in an authorized financial institution by an
2 eligible individual participating in ~~[a family opportunity]~~ an
3 individual development accounts program pursuant to the
4 provisions of the ~~[Family Opportunity]~~ Individual Development
5 Accounts Act;

6 ~~[H. "family opportunity]~~ I. "individual
7 development accounts program" means a program approved by the
8 ~~[office]~~ division to establish and administer ~~[family~~
9 ~~opportunity]~~ individual development accounts and reserve
10 accounts for eligible individuals and to provide financial
11 training required by the ~~[office]~~ division for account owners;

12 ~~[I.]~~ J. "financial institution" means a bank, bank
13 and trust, savings bank, savings association or credit union
14 authorized to be a trustee of individual retirement accounts as
15 defined by federal law, the deposits of which are insured by
16 the federal deposit insurance corporation or the national
17 credit union administration;

18 ~~[J.]~~ K. "indigent" means an individual who, taking
19 into account the present income and the liquid assets and the
20 requirement for other basic necessities of life for ~~[himself]~~
21 the individual and ~~[his]~~ the individual's dependents, is unable
22 to pay the costs of allowable uses as set forth in the ~~[Family~~
23 ~~Opportunity]~~ Individual Development Accounts Act;

24 ~~[K.]~~ L. "matching funds" means money deposited in a
25 reserve account to match the withdrawals for allowable uses

1 from ~~[a family opportunity]~~ an individual development account
2 according to a proportionate formula that complies with rules
3 adopted by the director;

4 ~~[L.]~~ M. "nonprofit organization" means an
5 instrumentality of the state or a local government or an
6 organization described in Section 501(c)(3) of the Internal
7 Revenue Code of 1986 and exempt from taxation pursuant to
8 Section 501(a) of that code;

9 ~~[M. "office" means the office of workforce training~~
10 ~~and development;]~~

11 N. "program administrator" means a nonprofit
12 organization or tribe that is selected pursuant to the ~~[Family~~
13 ~~Opportunity]~~ Individual Development Accounts Act to offer ~~[a~~
14 ~~family opportunity]~~ an individual development accounts program
15 pursuant to a contract with the director;

16 O. "reserve account" means an account established
17 pursuant to the ~~[Family Opportunity]~~ Individual Development
18 Accounts Act in an authorized financial institution in which
19 matching funds are maintained and available for payment for a
20 predetermined allowable use following completion of all program
21 requirements by the account owner; and

22 P. "tribe" means an Indian nation, tribe or pueblo
23 located in whole or in part within New Mexico."

24 Section 3. Section 58-30-3 NMSA 1978 (being Laws 2003,
25 Chapter 362, Section 3, as amended) is amended to read:

.164013.3

1 "58-30-3. [~~FAMILY OPPORTUNITY~~] INDIVIDUAL DEVELOPMENT
2 ACCOUNTS.--[~~A. A family opportunity~~] An individual development
3 account may be established for an eligible individual as part
4 of [~~a family opportunity~~] an individual development accounts
5 program if the written instrument creating the account sets
6 forth the following:

7 [~~(1)~~] A. the account owner is an eligible
8 individual according to program requirements at the time the
9 account is established;

10 [~~(2)~~] B. the [~~family opportunity~~] individual
11 development account is established and maintained in an
12 authorized financial institution;

13 [~~(3)~~] C. deposits to [~~a family opportunity~~] an
14 individual development account shall be made in accordance with
15 the rules adopted pursuant to the [~~Family Opportunity~~]
16 Individual Development Accounts Act;

17 [~~(4)~~] D. withdrawals from [~~a family opportunity~~] an
18 individual development account shall only be made in accordance
19 with the [~~Family Opportunity~~] Individual Development Accounts
20 Act and rules adopted pursuant to that act;

21 [~~(5)~~] E. the matching amount that will be deposited
22 in the reserve account for each dollar deposited by the account
23 owner in the [~~family opportunity~~] individual development
24 account; and

25 [~~(6)~~] F. the financial institution in which [~~a~~

1 ~~family opportunity]~~ an individual development account is held
2 shall not be liable for withdrawals made for uses other than
3 allowable uses.

4 ~~[B. For purposes of 42 USCA 604(h), a family~~
5 ~~opportunity account shall be deemed to be an individual~~
6 ~~development account.]"~~

7 Section 4. Section 58-30-4 NMSA 1978 (being Laws 2003,
8 Chapter 362, Section 4, as amended) is amended to read:

9 "58-30-4. ELIGIBLE INDIVIDUALS.--

10 A. Except as set forth in ~~[Subsection]~~ Subsections
11 B and C of this section, an eligible individual shall have
12 earned income and shall be:

- 13 (1) eighteen years of age or older;
14 (2) a citizen or legal resident of the United
15 States;
16 (3) a resident of New Mexico; and
17 (4) an indigent.

18 B. A child in foster care is an eligible individual
19 if the child:

- 20 (1) is sixteen years of age or older;
21 (2) is an indigent;
22 (3) is a citizen or legal resident of the
23 United States; and
24 (4) is a resident of New Mexico.

25 C. A child is an eligible individual if the child:

- 1 (1) was born in New Mexico;
- 2 (2) is at least thirteen years of age and not
- 3 more than eighteen years of age;
- 4 (3) is a member of a family whose members are
- 5 all indigents;
- 6 (4) is a citizen or legal resident of the
- 7 United States; and
- 8 (5) is a resident of New Mexico."

9 Section 5. Section 58-30-5 NMSA 1978 (being Laws 2003,
10 Chapter 362, Section 5, as amended) is amended to read:

11 "58-30-5. RESPONSIBILITIES OF THE ~~[OFFICE]~~ DIVISION.--

12 A. The ~~[office]~~ division shall adopt rules
13 implementing the provisions of the ~~[Family Opportunity]~~
14 Individual Development Accounts Act.

15 B. The director shall make an annual report each
16 November to the governor and to the legislative finance
17 committee.

18 C. The ~~[office]~~ division shall use no more than
19 five percent of the money appropriated to fund the ~~[Family~~
20 ~~Opportunity]~~ Individual Development Accounts Act to administer
21 that act."

22 Section 6. Section 58-30-6 NMSA 1978 (being Laws 2003,
23 Chapter 362, Section 6, as amended) is amended to read:

24 "58-30-6. ~~[FAMILY OPPORTUNITY]~~ INDIVIDUAL DEVELOPMENT
25 ACCOUNTS COUNCIL.--

1 A. The "~~[family opportunity]~~ individual development
2 accounts council" is created. The council shall:

3 (1) provide oversight of the administration of
4 the ~~[Family Opportunity]~~ Individual Development Accounts Act;
5 ~~[and]~~

6 (2) suggest possible changes that benefit
7 account owners or improve the effectiveness of the ~~[family~~
8 ~~opportunity]~~ individual development accounts programs
9 throughout the state; and

10 (3) obtain subject matter expertise through
11 attendance at conferences and workshops related to asset-
12 building strategies.

13 B. The ~~[family opportunity]~~ individual development
14 accounts council shall meet at least two times in a calendar
15 year to perform its duties.

16 C. The ~~[family opportunity]~~ individual development
17 accounts council shall consist of the lieutenant governor or
18 the lieutenant governor's designee and eight members appointed
19 by the governor to represent the state geographically. The
20 director or the director's designee shall serve as an ex-
21 officio member of the council.

22 D. Appointed members of the ~~[family opportunity]~~
23 individual development accounts council shall receive per diem
24 and mileage pursuant to the Per Diem and Mileage Act for
25 attendance at required meetings and at authorized conferences

1 and workshops and shall receive no other compensation,
2 perquisite or allowance for their participation on the council.

3 E. The ~~[office]~~ division shall provide adequate
4 staff support and administrative services for the ~~[family~~
5 ~~opportunity]~~ individual development accounts council."

6 Section 7. Section 58-30-7 NMSA 1978 (being Laws 2003,
7 Chapter 362, Section 7, as amended) is amended to read:

8 "58-30-7. ADMINISTRATION OF ~~[FAMILY-OPPORTUNITY]~~
9 INDIVIDUAL DEVELOPMENT ACCOUNTS PROGRAMS.--

10 A. ~~[A family opportunity]~~ An individual development
11 account may be established for an eligible individual; provided
12 that the money deposited in the account is expended for
13 allowable uses for the account owner or the account owner's
14 spouse or dependents unless otherwise approved by the program
15 administrator.

16 B. ~~[A family opportunity]~~ An individual development
17 accounts program shall be approved and monitored by the
18 director for compliance with applicable law, the ~~[Family~~
19 ~~Opportunity]~~ Individual Development Accounts Act and rules
20 adopted pursuant to that act.

21 C. The program administrator shall establish a
22 reserve account sufficient to meet the matching fund
23 commitments made to all account owners participating in the
24 ~~[family opportunity]~~ individual development accounts program
25 and shall report at least quarterly to each account owner the

1 amount of money available in the reserve account for use by the
2 program administrator to match withdrawals for allowable uses.
3 Notwithstanding any matching commitment otherwise required, the
4 amount of state funds deposited in a reserve account during a
5 calendar year to match deposits from any single account owner
6 shall not exceed the higher of:

7 (1) two thousand dollars (\$2,000); or

8 (2) an amount determined by rule of the
9 ~~[office]~~ division.

10 D. The program administrator shall provide
11 financial education and other necessary training pertinent to
12 allowable uses by account owners, develop partnerships with
13 financial institutions, develop matching funds and manage the
14 operations of ~~[a family opportunity]~~ an individual development
15 account that is established within the program.

16 E. An eligible individual may open ~~[a family~~
17 ~~opportunity]~~ an individual development account upon
18 verification by the program administrator that the individual
19 maintains no other ~~[family opportunity]~~ individual development
20 account.

21 F. More than one eligible individual per household
22 may hold ~~[a family opportunity]~~ an individual development
23 account.

24 G. An account owner shall complete a financial
25 education program prior to the withdrawal of money from the

1 account owner's [~~family opportunity~~] individual development
2 account unless written approval is obtained from the program
3 administrator."

4 Section 8. Section 58-30-8 NMSA 1978 (being Laws 2003,
5 Chapter 362, Section 8, as amended) is amended to read:

6 "58-30-8. ALLOWABLE USES--WITHDRAWALS FROM [~~FAMILY~~
7 ~~OPPORTUNITY~~] INDIVIDUAL DEVELOPMENT ACCOUNTS--FORFEITURE OF
8 MATCHING FUNDS FROM RESERVE ACCOUNT--LOSS OF ELIGIBLE
9 INDIVIDUAL STATUS.--

10 A. Allowable uses of the money withdrawn from [~~a~~
11 ~~family opportunity~~] an individual development account are
12 limited to the following:

13 (1) expenses to attend an approved post-
14 secondary or vocational educational institution, including
15 payment for tuition, books, supplies and equipment required for
16 courses;

17 (2) costs to acquire or construct a principal
18 residence as defined in rules adopted pursuant to the [~~Family~~
19 ~~Opportunity~~] Individual Development Accounts Act that is the
20 first principal residence acquired or constructed by the
21 account owner;

22 (3) costs of major home improvements or
23 repairs on the home of the account owner;

24 (4) capitalization or costs to start or expand
25 a business, including capital, plant, equipment, operational

.164013.3

1 and inventory expenses, attorney and accountant fees and other
2 costs normally associated with starting or expanding a
3 business;

4 (5) acquisition of a vehicle necessary to
5 obtain or maintain employment by an account owner or the spouse
6 of an account owner; and

7 (6) in the case of a deceased account owner,
8 amounts deposited by the account owner and held in [~~a family~~
9 ~~opportunity~~] an individual development account shall be
10 distributed directly to the account owner's spouse, or if the
11 spouse is deceased or there is no spouse, to a dependent or
12 other named beneficiary of the deceased or if the recipient is
13 eligible to maintain the account, the account and matching
14 funds designated for that account from a reserve account may be
15 transferred and maintained in the name of the surviving spouse,
16 dependent or beneficiary.

17 B. Allowable uses of the money withdrawn from an
18 individual development account for account owners qualifying as
19 eligible individuals pursuant to the provisions of Subsection C
20 of Section 58-30-4 NMSA 1978 are limited to expenses to attend
21 an approved post-secondary or vocational educational
22 institution, including payment for tuition, books, supplies and
23 equipment required for courses.

24 [~~B.~~] C. Except as provided in Subsection [~~E~~] D of
25 this section, if an account owner withdraws money from [~~a~~

1 ~~family opportunity~~ an individual development account for a use
2 other than an allowable use, the account owner forfeits a
3 proportionate amount of matching funds from the reserve
4 account, as set forth in the agreement between the program
5 administrator and the account owner.

6 [G.] D. The program administrator may approve a
7 withdrawal by an account owner from ~~[a family opportunity]~~ an
8 individual development account to be used for a purpose other
9 than an allowable use only for serious emergencies as specified
10 in the rules adopted by the ~~[office]~~ division. For such an
11 approved withdrawal, the proportionate matching funds in the
12 reserve account shall remain in the reserve account for twelve
13 months following the withdrawal and, if an amount equal to the
14 withdrawn money is redeposited in the ~~[family opportunity]~~
15 individual development account within the twelve months, the
16 matching funds shall again be available to match withdrawals
17 for allowable uses.

18 [D.] E. At the request of the account owner and
19 with the written approval of the program administrator, amounts
20 may be withdrawn from the account owner's ~~[family opportunity]~~
21 individual development account and deposited in another ~~[family~~
22 ~~opportunity]~~ individual development account established for an
23 eligible individual who is the account owner's spouse or
24 dependent."

25 Section 9. Section 58-30-9 NMSA 1978 (being Laws 2003,

Chapter 362, Section 9, as amended) is amended to read:

"58-30-9. APPROVAL OF ~~[FAMILY OPPORTUNITY]~~ INDIVIDUAL DEVELOPMENT ACCOUNTS PROGRAMS.--

A. The ~~[office]~~ division shall issue a request for proposals from nonprofit organizations or tribes interested in establishing ~~[a family opportunity]~~ an individual development accounts program. A proposal submitted in response to the request shall:

(1) describe the geographic area to be served and the potential individuals who will be assisted by the program;

(2) state the amount, if any, of requested distributions of state money from the ~~[family opportunity]~~ individual development fund;

(3) describe the source and the amount of private or other public funds, if any, that will be used to supplement the requested distributions from the ~~[family opportunity]~~ individual development fund;

(4) state the amount, not to be less than one dollar (\$1.00), that will be deposited in the reserve account for each dollar deposited in ~~[a family opportunity]~~ an individual development account;

(5) describe the expertise, experience and other qualifications of the proposer and its employees; and

(6) contain such other information as required

1 in the request for proposals and rules of the director.

2 B. The director shall determine if an interested
3 nonprofit organization or tribe is eligible to be a program
4 administrator, determine the legal sufficiency of submitted
5 proposals, evaluate the proposals and, after consulting with
6 the [~~family opportunity~~] individual development accounts
7 council, select the program administrators.

8 C. In selecting program administrators, the
9 director shall:

10 (1) ensure that geographically diverse
11 populations throughout New Mexico will be served by [~~family~~
12 ~~opportunity~~] individual development accounts programs; and

13 (2) ensure that a substantial number of
14 [~~family opportunity~~] individual development accounts will serve
15 families in which one or more children are living with their
16 biological or adoptive mother or father, or with their legal
17 guardian.

18 D. The director shall enter into contracts with the
19 selected program administrators.

20 E. The director shall approve [~~a family~~
21 ~~opportunity~~] an individual development accounts program
22 submitted by a program administrator before the program
23 establishes [~~family opportunity~~] individual development
24 accounts or reserve accounts or provides services required by
25 the [~~Family Opportunity~~] Individual Development Accounts Act to

.164013.3

1 eligible individuals.

2 F. ~~[A family opportunity]~~ An individual development
3 account and a reserve account may be established only in an
4 authorized financial institution.

5 G. The director shall monitor all ~~[family~~
6 ~~opportunity]~~ individual development accounts programs to ensure
7 that ~~[family opportunity]~~ individual development accounts and
8 reserve accounts are being operated according to the contract
9 provisions, federal law, the provisions of the ~~[Family~~
10 ~~Opportunity]~~ Individual Development Accounts Act and rules
11 adopted pursuant to that act."

12 Section 10. Section 58-30-10 NMSA 1978 (being Laws 2003,
13 Chapter 362, Section 10, as amended) is amended to read:

14 "58-30-10. TERMINATION OF ~~[FAMILY OPPORTUNITY]~~ INDIVIDUAL
15 DEVELOPMENT ACCOUNTS PROGRAMS.--

16 A. ~~[A family opportunity]~~ An individual development
17 accounts program shall be terminated if the:

18 (1) ~~[office]~~ division determines that the
19 program is not being operated pursuant to the provisions of the
20 contract between the program administrator and the director,
21 the ~~[Family Opportunity]~~ Individual Development Accounts Act or
22 rules adopted pursuant to that act;

23 (2) provider of the program no longer retains
24 its status as a program administrator; or

25 (3) program administrator chooses to cease

.164013.3

1 providing ~~[a family opportunity]~~ an individual development
2 accounts program.

3 B. Upon termination of ~~[a family opportunity]~~ an
4 individual development accounts program, the director shall
5 administer the program until a qualified program administrator
6 is selected to administer the program. If, after a reasonable
7 period, the director is unable to identify and certify a
8 program administrator to assume the authority to continue to
9 operate a terminated ~~[family opportunity]~~ individual
10 development accounts program, money in a reserve account shall
11 be deposited into the ~~[family opportunity]~~ individual
12 development accounts of the account owners for whom the
13 proportionate share of the reserve account was established as
14 of the first day of termination of the program."

15 Section 11. Section 58-30-11 NMSA 1978 (being Laws 2003,
16 Chapter 362, Section 11, as amended) is amended to read:

17 "58-30-11. REPORTING.--A program administrator operating
18 ~~[a family opportunity]~~ an individual development accounts
19 program pursuant to the ~~[Family Opportunity]~~ Individual
20 Development Accounts Act shall report at least annually to the
21 director, as set forth in the rules of the ~~[office]~~ division.
22 Individual account owners shall not be identified in the
23 report. The report shall include:

24 A. the number of eligible individuals making
25 contributions to ~~[family opportunity]~~ individual development

1 accounts;

2 B. the total money contributed to each [~~family~~
3 ~~opportunity~~] individual development account and deposited into
4 each reserve account;

5 C. the total money in the aggregate deposited in
6 [~~family opportunity~~] individual development accounts and
7 reserve accounts administered by the [~~family opportunity~~]
8 individual development accounts program;

9 D. the amounts withdrawn from [~~family opportunity~~]
10 individual development accounts for either allowable uses or
11 for uses other than allowable uses and the amounts withdrawn
12 from reserve accounts;

13 E. the balances remaining in [~~family opportunity~~]
14 individual development accounts and reserve accounts; and

15 F. other information requested by the director to
16 monitor the costs and outcomes of the [~~family opportunity~~]
17 individual development accounts program."

18 Section 12. Section 58-30-12 NMSA 1978 (being Laws 2003,
19 Chapter 362, Section 12, as amended) is amended to read:

20 "58-30-12. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF
21 CERTAIN MEANS-TESTED PROGRAMS.--

22 A. Money deposited into [~~a family opportunity~~] an
23 individual development account, interest earned on that account
24 and interest and matching funds deposited in a reserve account
25 for the benefit of the account owners shall be disregarded for

.164013.3

1 the purposes of determining eligibility for benefits and for
2 determining benefit amounts pursuant to the New Mexico Works
3 Act.

4 B. When determining eligibility for benefits and
5 determining benefit amounts due under the food stamp program
6 and medicaid, the human services department shall, pursuant to
7 the authority granted by 7 USCA 2014 (d) and (g), disregard
8 money deposited into [~~a family opportunity~~] an individual
9 development account, interest earned on that account and
10 interest and matching funds deposited in a reserve account for
11 the benefit of the account owners.

12 C. Money withdrawn from [~~a family opportunity~~] an
13 individual development account for a purpose other than an
14 allowable use shall be counted as a resource for purposes of
15 the New Mexico Works Act or medicaid unless the withdrawal is
16 approved by the program administrator and an amount equal to
17 the amount withdrawn is replaced within the twelve-month
18 allowable time period pursuant to Subsection [G] D of Section
19 58-30-8 NMSA 1978."

20 Section 13. Section 58-30-13 NMSA 1978 (being Laws 2006,
21 Chapter 96, Section 13) is amended to read:

22 "58-30-13. INDIVIDUAL DEVELOPMENT FUND CREATED.--The
23 "[~~family opportunity~~] individual development fund" is created
24 in the state treasury. The fund shall consist of
25 appropriations, gifts, grants, donations and bequests made to

1 the fund. Income from the fund shall be credited to the fund,
2 and money in the fund shall not be transferred to any other
3 fund at the end of a fiscal year. Money in the fund is
4 appropriated to the ~~[office of workforce training and~~
5 ~~development]~~ division for the purposes of carrying out the
6 provisions of the ~~[Family Opportunity]~~ Individual Development
7 Accounts Act. Expenditures shall be made on warrant of the
8 secretary of finance and administration ~~[on]~~ pursuant to
9 vouchers signed by the director ~~[of the office of workforce~~
10 ~~training and development]~~ or the director's designee."

11 Section 14. Section 27-2B-7 NMSA 1978 (being Laws 1998,
12 Chapter 8, Section 7 and Laws 1998, Chapter 9, Section 7, as
13 amended) is amended to read:

14 "27-2B-7. FINANCIAL STANDARD OF NEED.--

15 A. The secretary shall adopt a financial standard
16 of need based upon the availability of federal and state funds
17 and based upon appropriations by the legislature of the
18 available federal temporary assistance for needy families grant
19 made pursuant to the federal act in the following categories:

- 20 (1) cash assistance;
- 21 (2) child care services;
- 22 (3) other services; and
- 23 (4) administrative costs.

24 The legislature shall determine the actual percentage of
25 each category to be used annually of the federal temporary

1 assistance for needy families grant made pursuant to the
2 federal act.

3 B. The following income sources are exempt from the
4 gross income test, the net income test and the cash payment
5 calculation:

- 6 (1) medicaid;
- 7 (2) food stamps;
- 8 (3) government-subsidized foster care payments
9 if the child for whom the payment is received is also excluded
10 from the benefit group;
- 11 (4) supplemental security income;
- 12 (5) government-subsidized housing or housing
13 payments;
- 14 (6) federally excluded income;
- 15 (7) educational payments made directly to an
16 educational institution;
- 17 (8) government-subsidized child care;
- 18 (9) earned income that belongs to a person
19 seventeen years of age or younger who is not the head of
20 household;
- 21 (10) fifty dollars (\$50.00) of collected child
22 support passed through to the participant by the department's
23 child support enforcement program;
- 24 (11) earned income deposited in ~~[a family~~
25 ~~opportunity]~~ an individual development account by a member of

.164013.3

1 the benefit group or money received as matching funds for
2 allowable uses by the owner of the [~~family opportunity~~]
3 individual development account pursuant to the [~~Family~~
4 ~~Opportunity~~] Individual Development Accounts Act; and

5 (12) other income sources as determined by the
6 department.

7 C. The total countable gross earned and unearned
8 income of the benefit group cannot exceed eighty-five percent
9 of the federal poverty guidelines for the size of the benefit
10 group.

11 D. For a benefit group to be eligible to
12 participate:

13 (1) gross countable income that belongs to the
14 benefit group must not exceed eighty-five percent of the
15 federal poverty guidelines for the size of the benefit group;
16 and

17 (2) net countable income that belongs to the
18 benefit group must not equal or exceed the financial standard
19 of need after applying the disregards set out in Paragraphs (1)
20 through (4) of Subsection E of this section.

21 E. Subject to the availability of state and federal
22 funds, the department shall determine the cash payment of the
23 benefit group by applying the following disregards to the
24 benefit group's earned income and then subtracting that amount
25 from the benefit group's financial standard of need:

1 (1) for the first two years of receiving cash
2 assistance or services, if a participant works over the work
3 requirement rate set by the department pursuant to the New
4 Mexico Works Act, one hundred percent of the income earned by
5 the participant beyond that rate;

6 (2) for the first two years of receiving cash
7 assistance or services, for a two-parent benefit group in which
8 one parent works over thirty-five hours per week and the other
9 works over twenty-four hours per week, one hundred percent of
10 income earned by each participant beyond the work requirement
11 rate set by the department;

12 (3) one hundred twenty-five dollars (\$125) of
13 monthly earned income and one-half of the remainder, or for a
14 two-parent family, two hundred twenty-five dollars (\$225) of
15 monthly earned income and one-half of the remainder for each
16 parent;

17 (4) monthly payments made for child care at a
18 maximum of two hundred dollars (\$200) for a child under two
19 years of age and at a maximum of one hundred seventy-five
20 dollars (\$175) for a child two years of age or older;

21 (5) costs of self-employment income; and

22 (6) business expenses.

23 F. The department may recover overpayments of cash
24 assistance on a monthly basis not to exceed fifteen percent of
25 the financial standard of need applicable to the benefit

1 group."

2 Section 15. Section 27-2B-8 NMSA 1978 (being Laws 1998,
3 Chapter 8, Section 8 and Laws 1998, Chapter 9, Section 8, as
4 amended) is amended to read:

5 "27-2B-8. RESOURCES.--

6 A. Liquid and nonliquid resources owned by the
7 benefit group shall be counted in the eligibility
8 determination.

9 B. A benefit group may at a maximum own the
10 following resources:

11 (1) two thousand dollars (\$2,000) in nonliquid
12 resources;

13 (2) one thousand five hundred dollars (\$1,500)
14 in liquid resources;

15 (3) the value of the principal residence of
16 the participant;

17 (4) the value of burial plots and funeral
18 contracts for family members;

19 (5) ~~[family opportunity]~~ individual
20 development accounts; and

21 (6) the value of work-related equipment up to
22 one thousand dollars (\$1,000).

23 C. Vehicles owned by the benefit group shall not be
24 considered in the determination of resources attributed to the
25 benefit group."

.164013.3

1 Section 16. Section 27-2B-10 NMSA 1978 (being Laws 1998,
2 Chapter 8, Section 10 and Laws 1998, Chapter 9, Section 10, as
3 amended) is amended to read:

4 "27-2B-10. [~~FAMILY OPPORTUNITY~~] INDIVIDUAL DEVELOPMENT
5 ACCOUNTS.--A participant may establish [~~a family opportunity~~]
6 an individual development account pursuant to the [~~Family~~
7 ~~Opportunity~~] Individual Development Accounts Act."

8 Section 17. Section 27-2D-6 NMSA 1978 (being Laws 2003,
9 Chapter 317, Section 6, as amended) is amended to read:

10 "27-2D-6. RESOURCES.--

11 A. Liquid and nonliquid resources owned by the
12 benefit group shall be counted in the eligibility
13 determination.

14 B. A benefit group may at a maximum own the
15 following resources:

16 (1) two thousand dollars (\$2,000) in nonliquid
17 resources;

18 (2) one thousand five hundred dollars (\$1,500)
19 in liquid resources;

20 (3) the value of the principal residence of
21 the participant;

22 (4) the value of burial plots and funeral
23 contracts for family members;

24 (5) [~~family opportunity~~] individual
25 development accounts; and

.164013.3

1 (6) the value of work-related equipment up to
2 one thousand dollars (\$1,000).

3 C. Vehicles owned by the benefit group shall not be
4 considered in the determination of resources attributed to the
5 benefit group."

6 Section 18. APPROPRIATIONS.--

7 A. Two hundred fifty thousand dollars (\$250,000) is
8 appropriated from the general fund to the individual
9 development fund for expenditure in fiscal year 2008 and
10 subsequent fiscal years for the purpose of carrying out the
11 provisions of the Individual Development Accounts Act for
12 account owners residing in counties not currently serviced by
13 contractors for the individual development accounts program.
14 Any unexpended or unencumbered balance remaining at the end of
15 a fiscal year shall not revert to the general fund.

16 B. Seven hundred fifty thousand dollars (\$750,000)
17 is appropriated from the general fund to the individual
18 development fund for expenditure in fiscal year 2008 and
19 subsequent fiscal years for the purpose of carrying out the
20 provisions of the Individual Development Accounts Act for
21 account owners qualifying as eligible individuals pursuant to
22 the provisions of Subsection C of Section 58-30-4 NMSA 1978.
23 Any unexpended or unencumbered balance remaining at the end of
24 a fiscal year shall not revert to the general fund.

25 Section 19. EFFECTIVE DATE.--The effective date of the

underscored material = new
[~~bracketed material~~] = delete

provisions of this act is July 1, 2007.

- 27 -

.164013.3

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS
COMMITTEE AND THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO NEW MEXICO STATE UNIVERSITY FOR
RESEARCH TO SUPPORT THE CHILE INDUSTRY IN NEW MEXICO.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Seven million dollars
(\$7,000,000) is appropriated from the general fund to the board
of regents of New Mexico state university for expenditure in
fiscal year 2008 and subsequent fiscal years for research to
support the chile industry in New Mexico. Any unexpended or
unencumbered balance remaining at the end of a fiscal year
shall not revert to the general fund.

.163811.1

SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND
TELECOMMUNICATIONS COMMITTEE
AND THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR IMPROVEMENTS AT RED ROCK STATE
PARK.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Five million dollars
(\$5,000,000) is appropriated from the general fund to the
energy, minerals and natural resources department for
expenditure in fiscal year 2008 for improvements to Red Rock
state park to bring it into compliance with the federal
Americans with Disabilities Act of 1990. Any unexpended or
unencumbered balance remaining at the end of fiscal year 2008
shall revert to the general fund.

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underscored material = new
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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR THE ECONOMIC DEVELOPMENT
DEPARTMENT'S COOPERATIVE ADVERTISING PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Six hundred thousand dollars
(\$600,000) is appropriated from the general fund to the
economic development department for expenditure in fiscal year
2008 to support the cooperative advertising program. Any
unexpended or unencumbered balance remaining at the end of
fiscal year 2008 shall revert to the general fund.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE NEW MEXICO DEPARTMENT OF
AGRICULTURE FOR THE NEW MEXICO FARMERS' MARKET NUTRITION
ENHANCEMENT PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two hundred fifty thousand
dollars (\$250,000) is appropriated from the general fund to the
board of regents of New Mexico state university for expenditure
in fiscal year 2008 for the New Mexico department of
agriculture to support the farmers' market nutrition
enhancement program. Any unexpended or unencumbered balance
remaining at the end of fiscal year 2008 shall revert to the
general fund.

.163451.2

SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS
COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE ECONOMIC DEVELOPMENT DEPARTMENT
FOR CERTIFIED BUSINESS INCUBATORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Seven hundred fifty thousand
dollars (\$750,000) is appropriated from the general fund to the
economic development department for expenditure in fiscal years
2008 and 2009 for operating funds for certified business
incubators in New Mexico. No certified business incubator
shall receive more than one hundred fifty thousand dollars
(\$150,000) pursuant to this appropriation, and any certified
business incubator receiving funding pursuant to this
appropriation must provide at least a fifty percent cash match.
Any unexpended or unencumbered balance remaining at the end of
fiscal year 2009 shall revert to the general fund.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS
COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR THE TECHNOLOGY RESEARCH
COLLABORATIVE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Twelve million dollars
(\$12,000,000) is appropriated from the general fund to the
board of regents of the New Mexico institute of mining and
technology for expenditure in fiscal year 2008 to support the
technology research collaborative and to provide state matching
dollars for federal and private contributions to the
collaborative and to the centers of excellence at the various
participating research and higher education institutions. Any
unexpended or unencumbered balance remaining at the end of
fiscal year 2008 shall revert to the general fund.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE ECONOMIC DEVELOPMENT DEPARTMENT
FOR MANUFACTURING EXTENSION SERVICES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--

A. One million three hundred thousand dollars
(\$1,300,000) is appropriated from the general fund to the
economic development department for expenditure in fiscal years
2007 and 2008 to contract for manufacturing extension services.
Any unexpended or unencumbered balance remaining at the end of
fiscal year 2008 shall revert to the general fund.

B. Expenditure of any of the money appropriated in
Subsection A of this section is contingent upon the receipt of
money from the national institute of standards and technology
to operate a manufacturing center in New Mexico that is

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1 approved by the national institute of standards and technology.

2 Section 2. EMERGENCY.--It is necessary for the public
3 peace, health and safety that this act take effect immediately.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT
AND TELECOMMUNICATIONS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR MOBILE INTERNET TRAINING FOR THE
NAVAJO NATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Six hundred twenty-eight
thousand dollars (\$628,000) is appropriated from the general
fund to the Indian affairs department for expenditure in fiscal
years 2008 and 2009 to operate two mobile internet training
sites for Navajo Nation chapters located wholly or partially in
New Mexico in order to provide internet services and training
to the Navajo people. Any unexpended or unencumbered balance
remaining at the end of fiscal year 2009 shall revert to the
general fund.

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underscored material = new
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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND
TELECOMMUNICATIONS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR SMALL BUSINESS INNOVATION RESEARCH
OUTREACH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two hundred fifty thousand
dollars (\$250,000) is appropriated from the general fund to the
higher education department for expenditure in fiscal year 2008
for the small business innovation research outreach program at
central New Mexico community college. Any unexpended or
unencumbered balance remaining at the end of fiscal year 2008
shall revert to the general fund.

.164259.2

HOUSE JOINT MEMORIAL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

DISCUSSION DRAFT

A JOINT MEMORIAL

REQUESTING THE CREATION OF A FOOD GAP TASK FORCE TO INVESTIGATE
WAYS TO IMPROVE ACCESS OF RURAL AND UNDERSERVED NEW MEXICANS TO
SOURCES OF HEALTHY AND AFFORDABLE FOODS.

WHEREAS, more than six hundred forty-seven thousand
people, one-third of New Mexico's population, live in rural
areas; and

WHEREAS, nineteen of New Mexico's thirty-three counties
are considered to have high or persistently high poverty rates;
and

WHEREAS, New Mexico is ranked first in the nation in food
insecurity and third in hunger; and

WHEREAS, low-income New Mexico families spend as much as
twenty-six percent of their annual income on food, a proportion
that is double that of the national average; and

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1 WHEREAS, on average, New Mexicans living in rural
2 communities pay eighty-five dollars (\$85.00) for a bag of
3 groceries, compared to urban dwellers who pay fifty-five
4 dollars (\$55.00) for the same bag of groceries; and

5 WHEREAS, many of New Mexico's rural residents must travel
6 thirty to seventy miles to shop at a grocery store; and

7 WHEREAS, health problems caused by poor nutrition,
8 including obesity and diabetes, cost New Mexico three hundred
9 twenty-four million dollars (\$324,000,000) annually; and

10 WHEREAS, those health problems can be remedied with
11 improved nutrition through adequate access to healthy,
12 affordable and culturally appropriate food; and

13 WHEREAS, evidence suggests that many New Mexicans,
14 especially those living in rural areas, do not have adequate
15 access to healthy, affordable and culturally appropriate foods,
16 because they lack access to grocery stores and transportation;
17 and

18 WHEREAS, research shows that people who do not have
19 adequate access to healthy, affordable and culturally
20 appropriate foods are likely to have diet and health problems
21 and to experience forms of food insecurity; and

22 WHEREAS, it is the policy of the state of New Mexico that
23 all New Mexicans have adequate access to healthy, affordable
24 and culturally appropriate foods;

25 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE

1 STATE OF NEW MEXICO that a food gap task force be appointed by
2 the governor, whose members shall include representatives from
3 the New Mexico food and agriculture policy council, the New
4 Mexico task force to end hunger, the New Mexico department of
5 agriculture, the economic development department, the
6 department of health, the human services department, the Indian
7 affairs department, the department of transportation, regional
8 councils of government, the grocery industry and appropriate
9 not-for-profit organizations; and

10 BE IT FURTHER RESOLVED that the governor be requested to
11 designate the economic development department to provide
12 administrative support to the food gap task force and that the
13 task force prepare a report to the governor and legislature
14 that provides information about the nature and scope of the
15 barriers that exist between New Mexicans and adequate access to
16 healthy, affordable and culturally appropriate foods and that
17 presents recommendations, options and steps that the public and
18 private sectors can use to improve access to healthy,
19 affordable and culturally appropriate foods in New Mexico; and

20 BE IT FURTHER RESOLVED that the food gap task force be
21 requested to investigate economic incentives and finance
22 options that the state could provide to assist grocery store
23 owners; methods of improving transportation and distribution
24 services; potential partnerships between the state and private
25 for-profit and not-for-profit entities; and ways to improve

1 coordination among existing food programs, health initiatives
2 and rural economic development programs to rebuild the
3 infrastructure of New Mexico's food and farming systems; and
4 that the task force develop an action plan that may include
5 pilot projects; and

6 BE IT FURTHER RESOLVED that the food gap task force
7 present its report to the governor and to the appropriate
8 interim legislative committees by October 30, 2007; and

9 BE IT FURTHER RESOLVED that copies of this memorial be
10 transmitted to the governor, the director of the New Mexico
11 department of agriculture, the secretary of economic
12 development, the secretary of health, the secretary of human
13 services, the secretary of Indian affairs and the secretary of
14 transportation.

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